United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *105th* CONGRESS, FIRST SESSION

SENATE—*Tuesday, February 2, 1999*

The Senate met at 9:59 and 58 seconds a.m., and was called to order by the President pro tempore [Mr. THURMOND].

ADJOURNMENT UNTIL WEDNESDAY, FEBRUARY 3, 1999

The PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until 12 noon, Wednesday, February 3, 1999.

Thereupon, the Senate, at 10 o'clock and 12 seconds a.m., adjourned until Wednesday, February 3, 1999, at 12 noon.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

HOUSE OF REPRESENTATIVES—*Tuesday, February 2, 1999*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BARRETT of Nebraska).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 2, 1999.

I hereby designate the Honorable BILL BARRETT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 19, 1999, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. VISCLOSKY) for 5 minutes.

ILLEGAL DUMPING OF STEEL, A CRISIS IN AMERICA

Mr. VISCLOSKY. Mr. Speaker, I rise today to announce the introduction of legislation along with the gentleman from New York (Mr. QUINN), the gentleman from Ohio (Mr. KUCINICH), the gentleman from Ohio (Mr. NEY) and 96 other of my colleagues.

The 100 of us join together today to try to provide a solution to the crisis we face in the United States of America today involving the domestic steel industry. We want to help those Americans who want to work in a steel mill in the United States of America, and I say want to because using the administration's figures it is clear that over the last 12 months, 8,775 steel workers have already lost their job because of this crisis. That translates into 24 steel workers, 24 American families today will lose a breadwinner in everything that connotes.

What is the cause of this crisis? Illegal dumping. Countries selling steel in the United States, or I should almost suggest giving it away in the United States of America, at below their costs of production, at below what they sell it in their home market.

This crisis began after July of 1997, and it is of astronomical proportions. Using trade figures from November of this past year, imports have increased over that approximately 18-month period of time by 48 percent. Imports in November of 1998, compared to pre-crisis level in July 1997, from Japan, increased by 303 percent; 303 percent as shown on the first chart.

Steel exports from Russia increased from July 1997 to November 1998 by 151 percent, 151 percent. Steel exports to the United States increased from Korea from July 1997 to November 1998 by 111 percent. Exports of steel to the United States from the Ukraine increased from July 1997 to November 1998 by 196 percent.

The result at Timken Company is that 160 workers were laid off in Pittsburgh, Pennsylvania. Forty-seven workers were laid off at three Ohio steel manufacturing facilities. Forty union workers were laid off at Timken Latrobe Steel in Latrobe, Pennsylvania. Four hundred people were released from the former Inland Steel Company in Indiana. At Geneva Steel Company in Vineyard, Utah, there is an 18 percent cutback. USX laid off 200 workers in Fairfield, Alabama, and 100 workers at the Mon Valley Works near Pittsburgh. Slater Steel Corporation has slashed 51 positions. It has altogether reduced the salaried workforce by 22½ percent. Acme Metals in Riverdale, Illinois, has filed for Chapter XI bankruptcy.

There is Gulf States Steel Corporation in Gadsden, Alabama, where 100 steel workers have been laid off. Northwestern Steel and Wire Corporation in Sterling Falls, Illinois, 300 of 400 workers are out of work today. Weirton Steel Corporation, Weirton, West Virginia, more than 900 steel workers have lost their job.

No action was taken by last fall, and the Congressional Steel Caucus introduced a resolution. Language ultimately was sent to the administration begging, imploring and demanding that the President of the United States act. The President reported back to Congress with his action plan in January of this past year, and among other things the President indicated that the Japanese government has indicated, the President's word to us, that Japanese steel imports would return close to 1997 levels, close to 1997 levels, in 1999. A representative of the Japanese government later indicated that that potentially was not true.

The administration will come before us today and indicate that the Japanese have begun to correct their problem with the United States, and my colleagues can see by the second chart that, yes, indeed, exports from Japan have declined. Today they are 94 percent higher than they were at pre crisis levels, and I will bet steel workers in Japan have not lost their job.

But that contrasts to the USS/Fairless Works where Mike Dobrowolsky and Kenneth Houser were laid off the day before Thanksgiving. They are both in their mid forties, they are married, they each have two children. Both have worked for more than 20 years at Fairless; they are not working today. At Geneva Steel Corporation in Utah, Eric Shepherd is married with three children and was among those laid off in September.

We need to act.

SOLUTIONS TO THE CHALLENGES WE FACE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Illinois (Mr. WELLER) is recognized during morning hour debates for 5 minutes.

Mr. WELLER. Mr. Speaker, I have the privilege of representing a very diverse district in Illinois. I represent the south side of Chicago, the south suburbs in Cook and Will Counties, a lot of bedroom communities like the town of Morris where I live, towns like Peru, and a lot of farm towns. When representing a diverse district, of course one wants to listen and find out what is a common message, and I find, as I listen and learn, the concerns of the people of this very diverse district. They tell me one very clear message, and that is the people of our part of Illinois want solutions, solutions to the challenges that we face.

In fact, in 1994 when we were elected they sent us here with a very clear message that was part of that effort to find solutions, and that is we want to change how Washington works and make Washington responsive to the folks back home. When we were elected in 1994, we wanted to bring solutions to balance the budget, to cut taxes, to reform welfare, to tame the IRS. There were an awful lot of folks in Washington who said we could not do any of those things because they had always failed in the past. But I am proud to say that we did. I am pretty proud of our accomplishments: balancing the budget for the first time in 28 years,

cutting taxes for the first time in 16 years, reforming welfare for the first time in a generation, taming the IRS for the first time ever. We produced a balanced budget that is now projecting a $2.3 trillion; that is ''T'' as in Tom trillion dollars surplus of extra tax revenue. We produced a $500 per child tax credit that will now benefit three million Illinois children. We produced welfare reform that has now lowered rolls in Illinois by 25 percent, and taxpayers now enjoy the same rights with the IRS that they do in the courtroom, and that is a taxpayer is innocent until proven guilty.

Mr. Speaker, those are real accomplishments, but we continue to face challenges in this Congress, and because this Congress held the President's feet to the fire, we balanced the budget, and now we are collecting more in taxes than we are spending. And the question is today: What do we do with that extra tax money? What do we do with that $2.3 trillion surplus of extra tax revenue?

I believe it's pretty clear what the first priority is, and I think we all agree. We want to save Social Security. We want to save Social Security first, and I want to point out that last fall this House of Representatives passed the 90–10 plan which would have set aside 90 percent of the budget surplus, the extra tax revenue to save Social Security. Two weeks ago in this very room the President said we now only need 62 percent. Well, we agree. We want to make the first priority, and we certainly agree that at least 62 percent of the surplus tax revenue should be reserved for saving Social Security. The question is: What do we do with the rest?

Some say, particularly Bill Clinton, we should save Social Security and spend the rest on new big government programs. Now I disagree. I believe we should save Social Security and give the rest back in tax relief. The question is, it is simple: Whose money is it in the first place?

If my colleagues go to a restaurant and they pay too much, they overpay their bill, the restaurant refunds their money. They do not keep it and spend it on something else. Well, clearly in this case the government is collecting too much. Well, let us give it back.

The question is: Do we want to save Social Security and create new government programs and spend the rest of the surplus, or do we want to give it back by saving Social Security and eliminating the marriage tax penalty and rewarding retirement savings? Tax Foundation says today that the tax burden is pretty high. In fact, for the average family in Illinois, 40 percent of the average family's income in Illinois now goes to Washington and Springfield and local taxing bodies at every level. In fact, since Bill Clinton was elected in 1992, the total amount of tax revenue collected has gone up 63 percent since 1992.

Clearly taxes are too high.

We can help working taxpayers, we can help working taxpayers, we can help working families. Let us save Social Security and cut taxes. Let us save Social Security and eliminate the marriage tax penalty. Let us save Social Security and reward savings for retirement. Some say we cannot, but I believe we can. Just as we balanced the budget for the first time in 28 years, it is because we also cut taxes for the first time in 16 years, reformed welfare for the first time in a generation and tamed the IRS for the first time ever. We can also save Social Security, and lower taxes for working families and bring that tax burden down for the first time in a long time.

Mr. Speaker, let us save Social Security, let us cut taxes, let us eliminate the marriage tax penalty.

STAND UP FOR STEEL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from West Virginia (Mr. MOLLOHAN) is recognized during morning hour debates for 5 minutes.

Mr. MOLLOHAN. Mr. Speaker, 2 weeks ago the Ohio Valley made itself heard here in the Nation's Capital. Thousands of steel workers and their families woke before dawn on a cold damp January day. They came from Weirton, they came from Wheeling, from all across the tri-state area. They jammed into dozens of buses for a 6 hour ride to Washington. When they got here, they rallied long and hard on the steps of this Capitol. Then they marched down Pennsylvania Avenue and rallied long and hard at the White House. Then they jammed back into their buses to get home before morning came again, and many of them lost a day's pay in the process.

So why did they do it?

They did it, Mr. Speaker, because our steel communities are in a state of pure crisis. We have been overtaken by illegal imports, and we cannot take it any more.

Every hour another American steel worker loses his or her job. Every hour another American family wonders when and if they will ever see another paycheck. And what is worst of all is that they have not done a single thing wrong. In fact, Mr. Speaker, they have done everything right.

For years the American steel workers have sacrificed, our American steel companies have made huge investments. They did it all in the name of efficiency, to achieve productivity standards unheard of, and now they are the world's best producers.

But that means nothing if our so-called partners do not play by the same rules. It means nothing if Japan and Russia and Korea can dump steel in our markets whenever they want.

That is not fair trade, Mr. Speaker. That is not even free trade. It's foolish trade, and it is, in fact, absolute folly for this Congress and this administration to sit and watch as the American steel industry is destroyed by unfair foreign imports.

Our steel industry is at the breaking point, Mr. Speaker. There's no time left for tough talk; there is only time for tough action.

Today the Steel Caucus is introducing tough legislation. I commend my good friends: the gentleman from Ohio (Mr. REGULA), the gentleman from Pennsylvania (Mr. MURTHA), the gentleman from Indiana (Mr. VISCLOSKY) and the gentleman from Ohio (Mr. TRAFICANT) for their leadership on this issue. I am proud to cosponsor the bills that are being brought before the Congress. I urge my colleagues, Mr. Speaker, to make this legislation the very first priority in the 106th Congress. I urge them to stand up for steel.

□ 1245

THE STEEL IMPORT CRISIS

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under the Speaker's announced policy of January 19, 1999, the gentleman from Ohio (Mr. REGULA) is recognized during morning hour debates for 5 minutes.

Mr. REGULA. Mr. Speaker, I rise today to discuss the continued threat that the surge of low priced steel imports is having on our domestic steel industry and on the jobs of steel workers, their families and the communities in which they live.

According to the President's steel report released on January 7, we have already lost 10,000 steel worker jobs in the United States.

This import crisis is having a dramatic effect on the families that are directly affected by these job losses, but the story does not end there. Many more jobs are being lost as suppliers cut back and businesses in the affected communities must cut back on employment because demand for their products and services is no longer there.

We are told by the administration, and I quote from the January 7 report: ''Free and fair rules-based trade is essential for both global economic recovery and for U.S. prosperity.'' I emphasize ''fair rule-based trade.''

But what we have seen since July 1997 when the Asian financial crisis began and the Russian economic crisis flared up has certainly not been ''fair rules-based trade.'' At that time we already had worldwide over-capacity in steel production because many nations had subsidized the building of new steel plants that had no economic basis. Then demand in these nations collapsed as their currencies and the economy collapsed.

In order to obtain hard currency, foreign companies began shipping to the world's most open market, the United States. The oversupply of steel products on the world market flowed into the United States, often at prices that had no relation to actual production costs.

For example, steel mill imports into the United States jumped almost 33 percent in 1998 over imports in 1997, and it should be noted that 1997 was already a record year for imports.

Steel mill product from Japan surged 163 percent in 1998 over 1997, with hot rolled steel products from Japan increasing an astronomical 386 percent in 1998 over 1997. Steel mill product imports from Russia were up 58 percent and on and on.

These figures do not paint a picture of ''fair rules-based trade,'' as the President called it, with regard to steel imports.

It is time that the administration truly enforce fair trade in this Nation with regard to steel imports. It is also time that we examine our overall trade policy.

As we provide nations in financial and economic turmoil with international monetary fund aid, should these nations be allowed to export their way out of their troubles, thereby threatening a basic industry in the United States? Why should an industry, such as the steel industry, which has modernized and downsized to become world competitive, now be put at risk because of outside factors over which it has no control?

Do we want to become a nation without any basic manufacturing capability, totally dependent on foreign supply of things such as steel? These are questions that we must address and which have been brought to the forefront by the steel import crisis.

I continue to urge the administration to take immediate action under existing authority. I refer to Section 201 of the 1974 Trade Act, which allows the President to respond to injurious import surges. He now has the authority to impose tariffs or quotas if the International Trade Commission finds injury.

Section 201 is the appropriate current law remedy accepted under our international obligations to stop import surges that injure.

One problem that exists with Section 201 is that the injury standard is high, higher than required by the World Trade Organization rules. Because the injury standard under current law is so high, Section 201 has not been the remedy of choice.

I have proposed legislation that would lower the injury standard that now exists in Section 201 to bring it into compliance with World Trade Organization rules. This would restore the effectiveness of Section 201 and make it a viable remedy against import surges.

With this change to Section 201, the administration could join with the Congress, industry and labor to rekindle the partnership that was so effective during the 1980's in rebuilding this vital industry, and come up with a solution to stop unfair imports.

Such a solution to the import crisis could be agreed to by all parties under a U.S. law that is in accordance with our international obligations. We could work together to ensure that no more jobs are lost and that we maintain a vital and strong domestic steel industry here in the United States.

SUPPORT THE VISCLOSKY-QUINN-KUCINICH-NEY STEEL BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Ohio (Mr. KUCINICH) is recognized during morning hour debates for 5 minutes.

Mr. KUCINICH. Mr. Speaker, we are here because the policy of this administration on international finance and trade is causing a crisis for American workers and industries.

The centerpiece of the administration's policy is to widen the trade deficit. They are depending on American consumers to continue spending record amounts to pull the rest of the world out of the severe recession it has plunged into. The rest of the world includes Russia, Thailand, Brazil and Mexico.

Many of these countries have witnessed a dramatic devaluation of their currencies, which makes their product very cheap when sold in the United States. And when the products are flowing into the United States unfairly, underpriced to similar products made in America, the administration has chosen to allow the foreign product to undercut the American, and that is causing layoffs in many American industries, and it has reached a crisis level in steel.

There is no question that the U.S. trade deficit is growing at a rapid pace. The goods and services trade deficit grew nearly 54 percent last year over the preceding year, according to figures compiled by the Economic Policy Institute, to a level of $170 billion.

Cheap foreign steel is flooding the American market. Last year, a record amount of foreign steel came to the United States. In the third quarter, 56 percent more foreign steel was brought to the United States than in the third quarter of the preceding year.

At the same time, American workers in industries affected by the foreign imports are losing their jobs. We are here today because the steel workers have been dramatically affected by the import of foreign steel made cheap by currency devaluations.

Ten thousand American steel workers have already lost their jobs. Steel workers are not losing their jobs because the American steel industry is inefficient. In fact, the American steel industry is the world's most efficient. The reason American steel workers are losing their jobs is that the price of foreign steel, though more inefficient, is so much cheaper due to the devaluation of the currencies of those countries.

Steel workers are not the only ones losing their jobs to cheap imports. According to the Economic Policy Institute, 249,000 workers, that is 249,000 American workers, lost their manufacturing jobs between March and December.

Americans should know there is a direct connection between the inflow of cheap foreign products reflected in a growing trade deficit and American job loss. This is already having and will continue to have a profound negative effect on the United States economy.

The Financial Times wrote in an editorial yesterday that the U.S. trade deficit is ''unsustainable.'' Unsustainable because the record levels of consumer debt, combined with mounting American job loss and resulting loss of wages and benefits, will make it impossible for Americans to continue to spend record amounts on foreign products; unsustainable because the economic policies that the International Monetary Fund have imposed on Thailand, Brazil and others create austerity and depression, not growth that will continue into the future and benefit the citizens of those countries.

The administration is blind to this connection. In the President's recent report on steel, the administration proposes no comprehensive action to stem the inflow of foreign steel made cheap by currency devaluation.

In recent statements to Congressional committees, members of the administration have counseled that America stay the course and continue importing cheap foreign imports at record levels. But this policy is unsustainable. The U.S. cannot continue as an oasis of prosperity while the rest of the world experiences economic depression of a magnitude in some countries that greatly overshadows our own Great Depression of the 1930's.

The extent of the economic crisis around the world is so great that even if the United States doubles its record trade deficit, it will not be enough to pull the rest of the world out of its troubles, but it will be enough to send thousands and thousands more Americans out of work and send the United States into a recession.

That is why we are here today, Mr. Speaker, to step into the breach by proposing the Visclosky-Quinn-Kucinich-Ney steel quota bill. Our bill will impose limitations on the imports of cheap foreign steel at levels not to exceed the average volume of steel products that was imported monthly

during the three years before the recent import surge began in July 1997. Our bill is the only action that will directly confront the major cause of layoffs in the steel industry. Our bill is America's best hope in averting an economic crisis of our own.

It is time to stand up for American steel workers. It is time to stand up for America's future. We cannot have a free nation if we let our manufacturing base fall apart, and that is what our trade policy is doing.

NO PARDON FOR POLLARD

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Washington (Mr. NETHERCUTT) is recognized during morning hour debates for 5 minutes.

Mr. NETHERCUTT. Mr. Speaker, on January 19, I introduced House Concurrent Resolution No. 16, expressing the sense of Congress that Jonathan J. Pollard should serve his full sentence and not receive any presidential pardon for his crime of espionage.

Jonathan Pollard was a civilian employee at the Department of the Navy from September 1979 until November 1985. He had access to classified documents and information and began making those documents available to Israeli intelligence officers in 1984. When he was arrested, by his own estimate, Pollard had given the Israelis enough documents to fill some 360 cubic feet. In 1987, he pled guilty and was sentenced to life in prison.

The President has twice rejected release for Pollard, in 1994 and again in 1996. In fact, the White House press statement in 1996 found that, ''The enormity of Mr. Pollard's offenses, his lack of remorse, the damage done to our national security and the need for general deterrence in the continuing threat to national security that he posed made the original sentence imposed by the court warranted.''

Of course, nothing has changed. Pollard remains unrepentant, and the damage to national security has not paled with the passage of time. But something must have changed, at least in the mind of the Clinton White House.

In October 1998 President Clinton acceded to the request of the Israeli prime minister to review Pollard's sentence. The answer should have been a polite but a firm ''no.'' But, instead, the President agreed to a review.

On January 11, the relevant executive agencies were to report back on the virtues of releasing Pollard. Not surprisingly, the director of the CIA, the Secretary of State, the Secretary of Defense and the director of the FBI were unanimous in opposing any pardon for Pollard.

The position of the Department of Justice has been less clear. Attorney General Janet Reno has delayed in offering an opinion to the President in the case pending a meeting with the prominent Jewish figures who support Pollard's release. The AG's office could not confirm for me yesterday whether such a meeting had taken place, nor could they offer any date when any legal opinion on Pollard's release may be offered.

To me, this seems like a clear case for the Department of Justice. But apparently they require more extensive deliberations than our national security agencies are capable of providing.

But what deliberation is really needed? Press accounts have given us some indication of how damaging Pollard's betrayal really was. He didn't just give away intelligence estimates, he also betrayed sources and methods, the very capabilities that make sound intelligence estimates possible.

Revealing how our intelligence services learn secrets is extremely damaging, because it provides opportunities for our targets to hide assets and plant misinformation, negating the very capabilities we spend billions of taxpayer dollars over the years to develop and maintain.

Of course, Pollard is now claiming that he never intended to spy against the United States. He claims that his espionage efforts were motivated by a noble concern for the State of Israel and a desire to avoid a return of the Yom Kippur War.

He says, very charitably, that the money he was paid, more than $50,000, did not motivate his spying, and that he intended to repay it all, and he suggests that because Israel is an ally of the United States, his sentence should be reduced, as if spying for a friend is a lesser evil than spying for an enemy.

□ 1300

Of course, this logic also ignores the suggestions in the public record that much of what Pollard provided to Israel may have ended up in the hands of the Soviet Union. Then there is the issue of his willingness to provide information to countries in addition to Israel.

It is important to point out that even though Pollard is now eligible for parole, he has not chosen to apply. All of the public deliberations on Pollard are occurring without his having even sought release.

The granting of pardons is a constitutional power reserved for the President of the United States, but that does not mean that Congress is obliged to sit by quietly as this decision is made. Two weeks ago, 60 Senators from the United States Senate sent a letter to the President urging that Pollard not be set free. House Concurrent Resolution 16 similarly will allow the House of Representatives to go on record opposing any pardon, reprieve, or any other form of executive clemency for Mr. Pollard. The gentleman from Michigan (Mr. UPTON) has also introduced a resolution opposing a pardon, and I encourage all Members to join us as cosponsors of both resolutions. This betrayal of U.S. national security must not be rewarded with a presidential pardon.

Last week, two Americans were convicted of spying for East Germany throughout the 1970s and 1980s. Releasing Pollard now suggests that when the political price is right, we are willing to look the other way on espionage. Pollard's betrayal of U.S. national security must not be rewarded with a Presidential pardon and I hope Members will join as cosponsors to H. Con. Res. 16.

NO NEW INITIATIVES YIELDS EMPTY PROMISES

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under the Speaker's announced policy of January 19, 1999, the gentleman from Ohio (Mr. TRAFICANT) is recognized during morning hour debates for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, I have heard a lot of comments about this steel dumping issue, and it continues to amaze me how we debate this issue on a lot of sophisticated, philosophical grounds when it is basically a very simple issue. A number of foreign countries are invading our marketplace with illegal criminal trade practices.

The White House, it was rumored, was going to come out with a response and that response, they said, would include no new initiatives. Well, that rumor is true. The White House response includes absolutely no new initiatives.

So let us go over just briefly the old initiatives that we will, as diplomats and bureaucrats, sit down with the Japanese, the Russians, the Brazilians, the South Koreans, and we will ask them to please stop violating our laws. We are going to ask them to make another promise, another promise. And I can remember Richard Nixon and every President up to and including President Clinton who threatened Japan with sanctions, just Japan alone, if they did not open up their markets. Now, every President in our recent history threatened Japan, and evidently, every time Japan responded with a promise, they broke it. They broke it.

Now, what is this policy? It is like putting a kid in a candy store and telling him, you cannot touch, you cannot smell and certainly you cannot eat anything here, but we want you to run free in this candy store and take a look at all of the goodies here, folks.

I have submitted a bill I think is right to the point. They say it has no shot, but I know the Trade Representative is negotiating with it right now. And what they are saying is, and I can almost give my colleagues the words: Do we want such a dramatic action? Shape up, or the House may even ban

illegal dumping. And it is not an outright ban, it is a 90-day ban, and it is the only thing that will stop this hemorrhaging. If the wound is open and one is hemorrhaging, one must stop the hemorrhaging. That is the bottom line.

This administration and no administration in the last 25 years will support import quotas. So what will it be? Voluntary restraint agreements? Side-bar agreements? Unbelievable to me.

One other aspect of this thing that really bothers me, and it should bother my good friend, the gentleman from Massachusetts (Mr. FRANK), whose voice is needed on this issue, and that is the White House wants to give some tax relief to American steel companies. Now, I think that is great, and I would like to see some relief for our industry. But quite frankly, I have to oppose this, because that tax relief will be coming from American taxpayers, many of them laid off and fired steelworkers, downsized, whose taxes are going to go to help American industry that is being ripped off by foreign ingrates. Beam me up here. Is there any balsam left? We give foreign aid to Brazil and Russia. We give open markets to South Korea and Japan, and they kick us right in the crotch, and that is the bottom line.

I am hoping this House schedules for debate a 90-day temporary ban, and quite frankly, Scarlet, I do not give a damn what the final agreement is that is worked out after that ban. Because I guarantee my colleagues this: As soon as the shock waves come from that ban, they will all be sitting at the table and they will be machinating those pencils and within 7 days this problem will be worked out. I am absolutely convinced of that.

Mr. Speaker, before I close, it is not only the steel industry. Farmers are getting as low as 7 cents a pound live weight for hogs in America. We are exporting 40,000 and importing a half a million hogs. Agriculture, steel, huge trade imbalances. A paper tiger stock market. No one is listening, no one is looking, and we are going to ask for more promises. I say it is time to stop the promises and promulgate some plan.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members that they should refrain from using profanity in the House Chamber.

BIENNIAL BUDGET AND CONCEALED WEAPONS RECIPROCITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. STEARNS) is recognized for 5 minutes.

Mr. STEARNS. Mr. Speaker, I rise today to announce the introduction of what I consider to be two significant bills for the American people regarding the budget process here in Congress, and allowing law abiding citizens to carry concealed weapons outside of their home States.

The first bill I will be introducing is a companion bill to what has already been introduced by Senator DOMENICI to establish a biennial budget happening every two years and a biennial appropriation process. The Biennial Budgeting and Appropriations Act would fundamentally change how Washington and the Congress operates. It would be a change for the better in dealing with the Nation's fiscal matters. This bill would establish a two-year budget process and appropriations process for Congress.

The fundamental importance of this bill is that it removes politics from the budget process. The first session of Congress would be dedicated to passing a budget and the 13 appropriations bills. Establishing this method would free the Congress from the nastiest budget and appropriations fights during national election years.

I was greatly dismayed last year watching the outcome of the budget negotiations between the congressional leadership and the White House, where both sides agreed to spend as much of the budget surplus as they could. The administration was able to use, once again, the threat of a government shutdown in order to extract billions of dollars in extra spending for political gain. The American taxpayer deserves to be better treated than last year's cop-out on sticking to our budget priorities. I voted against that monster budget last year.

The second congressional session could then be dedicated for authorizing bills which are greatly needed and which are greatly bypassed, in our day and age, for general government oversight and for other important legislative priorities.

In addition, the second session would be used for any true, necessary emergency spending bills which would have to be dealt with in the appropriate spring months of an election year to avoid political manipulation. Since 1950, Congress has only twice met the fiscal year deadline for completion of all 13 individual appropriations bills. In the 22-year history of the Budget Act, Congress has met the statutory deadline to complete a budget resolution just three times.

A biennial budget would at least reduce the rushed atmosphere of budgeting and appropriating during an election process. In addition, Senator DOMENICI asked 50 Federal agencies about a biennial budget. Thirty-seven agencies supported the idea, and not one Federal agency opposed it. These agencies responded that this process would actually save the Federal Government money, because it would reduce the burden on their operations of having to annually seek budget authority and appropriations.

Senator DOMENICI introduced a similar bipartisan bill in the last Congress and enjoyed cosponsorship of 36 U.S. Senators, including Minority Leader DASCHLE, Senators FEINGOLD, MOYNIHAN, BREAUX and other Republican Senators, including MCCAIN, NICKLES, and ROTH. The current bill already has 26 Senate cosponsors, and it appears that it will sail through the Senate. Therefore, I urge my colleagues that have interest in this matter to work together and to consider this proposal and to be a cosponsor.

The second bill, Mr. Speaker, I will be introducing is my concealed weapons reciprocity bill that I had introduced in the 105th Congress, which was cosponsored by 75 Members of the House. My bill would allow the citizens of every State the right to carry a concealed weapon across State lines into any State or Territory of our Nation. My bill creates a national standard for the carrying of certain concealed firearms by nonresidents of those States.

Every citizen, in order to carry a concealed firearm across State lines, would have to be properly licensed for carrying a concealed weapon in their home State and would have to obey the concealed weapons laws of the State they are entering. If the State they are entering does not have a concealed weapons law, the national standard provisions in this legislation would dictate the rules in which a concealed weapon would have to be maintained. For instance, the national standard disallows the carrying of a concealed weapon in a school, police station or a bar serving alcoholic beverages.

Mr. Speaker, in addition, my legislation exempts qualified former and current law enforcement officers from State laws prohibiting the carrying of concealed handguns.

Mr. Speaker, again, these two pieces of legislation are very important. If Members of the House are interested in cosponsoring either of these bills, I urge that they contact my office.

KEN STARR'S MEDDLING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Massachusetts (Mr. FRANK) is recognized during morning hour debates for 3 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, even those of us who have come to be of low expectations regarding Kenneth Starr's behavior were astonished on Sunday when he, through his aides, interjected himself into the current proceedings on impeachment by announcing that he thinks he has the right to indict the President. Mr. Starr has a very unusual way of operating. He sets for himself a very low

standard and then consistently falls short of it.

The New York Times has been a major critic of President Clinton, but they have been forced by Mr. Starr's abhorrent behavior to become more critical of him, given their dedication to the rule of law. The New York Times editorial entitled ''Ken Starr's Meddling'' in which they note, and I quote, ''Mr. Starr is already regarded by his critics as an obsessive personality. Now he seems determined to write himself into the history books as a narcissistic legal crank.''

''The news article highlighted an underlying problem. Mr. Starr keeps flapping around, with deliberations over indictments and by meddling in the House managers' contacts with Monica Lewinsky, in ways that complicate Senate work that is more important than he is. . . . should rebuke Mr. Starr and appeal to the Federal judges who supervise him to restrain him from further disturbance of the constitutional process.''

Now, The Times understandably brushes off the fact that this was leaked illegally from Mr. Starr's office uncontestably, because they were the beneficiaries of the leak. But Mr. Starr has been guilty of this, and he has been guilty in sworn testimony before the House of misleading and perhaps lying about his role in this.

Mr. Speaker, when he testified before us on November 18 and I asked him about leaks, he said he could not respond because ''I am operating under a sealed proceeding.'' I then said, ''Sealed at your request, correct?'' And here is his answer. ''No, Mr. Frank. It is sealed by the Chief Judge.''

Mr. Speaker, I insert those portions of the editorial absent such references to the President and the Senate as are prohibited by House rules, and the following excerpt of hearing testimony of Mr. Starr for the RECORD and urge Members to read the whole editorial.

Mr. FRANK. Let me ask you again, did anybody on your staff, to your knowledge, do the things which Judge Johnson has included in her list of the 24 items? Understanding that you may think that if they did, they weren't violations, but did anybody on your staff give out that information on any of those 24 instances?

Mr. STARR. There are a couple of issues or instances in which we issued a press release where we do have—you know, we clearly issued a press release with respect to certain matters. But may I say this. I am operating under a sealed litigation proceeding, and what I am trying to suggest is, I am happy to answer as fully as I can, except——

Mr. FRANK. To the extent that you can't answer under this particular proceeding, it is sealed at your request to the extent that it is sealed at all. That is, Judge Johnson granted a motion for an open procedure. You appealed to the circuit court, and they closed it up, so if you didn't object, nobody else will. If you didn't do anything, why not just tell us if it is wrong factually. On the other hand, you are going to say well, you successfully got the circuit court to seal it, so I suppose I can't do much, but I don't understand why you don't just tell us.

Mr. STARR. Let me make very briefly these points. We believe that we have completely complied with our obligations.

Mr. FRANK. That wasn't my questions.

Mr. STARR. Under 6(e).

Mr. FRANK. My question is, Judge Johnson set it forward, and they did this. They could differ as to the law. I am not debating the law, I am trying to elicit a factual response.

Mr. STARR. The second point that I was trying to make is that I am operating under a sealed proceeding.

Mr. FRANK. Sealed at your request, correct?

Mr. STARR. No, Mr. Frank. It is sealed by the Chief Judge based upon her determination of——

Mr. FRANK. She granted a much more open proceeding and you appealed that and got a circuit court to severely restrict the procedure on the grounds that hers was too open. Isn't that true?

Mr. STARR. Congressman Frank, what she did was to provide for a procedure that didn't provide quote, ''openness,'' it provided for an adversarial process, and this is all in the public domain. But from this point forward, no, she is the custodian and the guide with respect——

Mr. FRANK. Would you ask her to release that? I think this is severe for public interest in dealing with this leak question. It does to the credibility of a lot of what you have done. Would you then join, maybe everybody would join, maybe the White House would join, and others, in asking Judge Johnson to relax that so we could get the answers publicly, because I think there is a lot of public interest, legitimate interest in this.

Mr. STARR. I am happy to consider that, but I am not going to make, with all respect, a legal judgment right on the spot with respect to appropriateness——

[From the New York Times]

KEN STARR'S MEDDLING

The most surprising aspect of the Senate impeachment trial is the persistent challenges to the senators' constitutional right to run it. First came the House managers' attempt to call a parade of unnecessary witnesses. Now we have an apparent effort from the office of Kenneth Starr, the independent counsel, to spark a debate over criminal prosecution of the President at a time when the Senate deserves a calm decision-making atmosphere and an open field for negotiation.

Mr. Starr is already regarded by his critics as an obsessive personality. Now he seems determined to write himself into the history books as a narcissistic legal crank. Once the Senate started the second Presidential impeachment trial in American history, that was Mr. Starr's cue not only to shut up but to stop any activity by his office that would direct attention away from the Senate or reduce its bargaining room. The issue of who leaked news of Mr. Starr's indictment research to the New York Times is a phony one. What is needed here is not an investigation of journalistic sources, but attention to the substance of Mr. Starr's legal mischief. It seems designed to disrupt these solemn deliberations into Presidential misconduct of a serious if undeniably sordid kind.

The news article highlighted an underlying problem. Mr. Starr keeps flapping around—with deliberations over indictments and by meddling in the House managers' contacts with Monica Lewinsky—in ways that complicate Senate work that is more important than he is. . . . rebuke Mr. Starr and also appeal to the Federal judges who supervise him to restrain him from further disturbance of the constitutional process.

This incident is more serious than Mr. Starr's customary blundering. The Constitution clearly allows the indictment and prosecution of officials who have been impeached by the House and removed from office by the Senate. But whether such a trial should go forward in this case is a complex constitutional and civic question that needs to be shaped by the wisdom . . . rather than by Mr. Starr's personal inclinations and his idea of prosecutorial duty. If the three witnesses being deposed this week do not dramatically change the evidence, then the Senate is clearly the right place to make the final disposition of President Clinton's case.

For Mr. Starr's office to be talking about a trial inhibits the Senate's freedom to draft a censure resolution that might include some kind of Presidential admission. Indeed, virtually everyone in the capital except Mr. Starr seems to know that censure-plus-admission, speedily arrived at, would be a far better outcome for the country than a trial for either a sitting or former President.

To be sure, if the changes were of greater criminal magnitude or threatened orderly government, such a trial could be fitting and constitutional once a President was removed. While removal is not appropriate in this case, the Senate is clearly the appropriate venue for condemning and finding a proportional punishment to offenses like those committed by Mr. Clinton.

Recently, after this testimony, the Chief Judge released the papers in the case relevant to that investigation of the leaks, and in this we have the following finding and the following pleading from Mr. Starr: ''The Office of the Independent Counsel urges the Court to keep the Order under seal until the conclusion of the investigation.'' And he ends once again by saying, ''The Order should remain under seal.''

I asked him, in other words, if the order was sealed at his request. He denied that. He said no. Now we have the paper that says he simply did not tell us the truth. But as The Times points out, the even more important issue is his apparent inability to restrain himself; his wholly inappropriate interjection of himself into the impeachment proceeding.

[In the United States District Court for the District of Columbia]

In re Grand Jury Proceedings

[Misc. Action Nos. 98–55, 98–177, and 98–228 (NHJ) (consolidated)]

RESPONSE OF THE UNITED STATES TO THE COURT'S SEPTEMBER 25, 1998 ORDER TO SHOW CAUSE

The United States of America, by Kenneth W. Starr, Independent Counsel, respectfully submits its response to the Court's request for proposed redactions to the Order to Show Cause of September 25, 1998. The Office of the Independent Counsel (''OIC'') urges the Court to keep the Order under seal until the conclusion of the investigation by the Special Master and findings by this Court. We believe that postponing the release of the Order will help preserve the integrity of the ongoing grand jury investigation, further the interests of Rule 6(e), and allow the Special Master to undertake his task without outside interference. If the Court determines to

unseal the Order, the OIC proposes that the identity of the Special Master be redacted so that, to the maximum extent possible, he is able to conduct his work outside the intense glare of the inevitable media spotlight.

In its August 3, 1998 opinion in this matter, the Court of Appeals cautioned against procedures that might cause ''undue interference with either the work of the grand jury or that of the district court itself.'' *In re Sealed Case No. 98–3077*, 151 F.3d 1059, 1073 (D.C. Cir. 1998). Here, the work of the Special Master also is protected from undue interference. Indeed, pursuant to the Court of Appeals' opinion, this proceeding is being conducted *ex parte* and *in camera* precisely to minimize the risk of interfering with or impeding the grand jury investigation. *See id.* at 1075.

Unsealing the Order before the Special Master concludes his work, and subjecting this proceeding to the unprecedented media frenzy that has surrounded the underlying grand jury investigation, needlessly increases that risk. Divulging the subject matter and scope of the proceeding at this time will provide a roadmap for prying and intrusion into it, and necessarily into grand jury matters in an ongoing investigation. These dangers can be avoided simply by delaying release of the Order until the Special Master conclude his investigation and the Court issues its findings.

Furthermore, as both this Court and the Court of Appeals have recognized, the threshold standard for establishing a *prima facie* case is minimal and is not conclusive of a violation of Rule 6(e). As the Court of Appeals noted, the OIC will have the opportunity in its rebuttal to ''negate at least one of the two prongs of a *prima facie* case—by showing either that the information disclosed in the media reports did not constitute 'matters occurring before the grand jury' or that the source of the information was not the government.'' *Id.* The unsealing of findings pinioned on the mere *prima facie* standard could be exploited by the criminal defense bar in an effort to undermine the integrity of the OIC's investigation. This is especially true in the political climate existing as a result of the OIC's §595(c) referral to Congress. The integrity of the investigation is an important interest that Rule 6(e) and the *ex parte* and *in camera* nature of the proceeding at this stage is intended to protect. That interest should not be compromised by unsealing the Order now.

Maintaining the Order under seal also will allow the Special Master to conduct his work without interference and interruption. If the existence and identity of the Special Master become public, he undoubtedly will become the focal point of worldwide press attention, his efforts the subject of media inquiry, investigation, and speculation. These distractions will only serve to impede a process that the Court, and the OIC, wants to see concluded expeditiously. Should the Court nevertheless determine to release the Order, the OIC proposes the redaction of all references to the identity of the Special Master in order to afford him as much anonymity as possible. (Copies of the OIC's proposed redactions on pages 20–22 of the Order are attached hereto).

Finally, the OIC intends to file a motion for partial reconsideration of the Order. We believe that this motion is well justified under the facts and law at issue in this proceeding, especially since the OIC has not had the opportunity to address whether several of the media reports establish a *prima facie* case. It would be premature for the Court to unseal the Order while the motion is pending, and before the Court has given thoughtful consideration to our views. At the very least, the Court's preliminary rulings in this matter, with which we respectfully disagree, ought not be made public until the motion for partial reconsideration is decided.

For the reasons set forth above, the Order should remain under seal until the Special Master completes his investigation and the Court issues its final findings.

Respectfully submitted,

DONALD T. BUCKLIN,
ANDREW W. COHEN,
Squire, Sanders & Dempsey L.L.P., Washington, DC.
Attorneys for the Office of the Independent Counsel.

Of Counsel,
KENNETH W. STARR,
Independent Counsel, Washington, DC.

Dated: October 1, 1998.

Mr. Starr has already done enormous damage to the institution of the Independent Counsel. It is time for him to somehow find an ability to show a restraint that has previously eluded him and let this proceeding conclude without him having to make himself, in a distracting way, the center of attention.

□ 1315

INJECTING REALITY INTO THE DEBATE ON THE BUDGET SURPLUS

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under the Speaker's announced policy of January 19, 1999, the gentleman from Florida (Mr. FOLEY) is recognized during morning hour debates for 5 minutes.

Mr. FOLEY. Mr. Speaker, I rise today because I want to inject a little bit of reality, I hope, into the ongoing budget debate on the surplus that we continually hear around this Capitol.

I know my home State has Disney World, and I know we have Universal Theme Park, and I know a lot of those expectations in those things are about not reality but about enjoying yourself.

It seems with this apparent flush of revenues for years to come, fiscal responsibility in Washington, D.C. has become a thing of the past. Indeed, the Administration's fiscal year 2000 budget seems to promise a new government program for just about anybody you can think of.

To be fair to the President, he does not propose using future surplus dollars for these new programs, but the assumption seems to be that with a healthy U.S. economy and a balanced budget in the black for the first time in decades, the government, the Federal Government, can afford to grow again.

We take out of account any potential downfalls in the economy. In fact, everybody in this Capitol is now so rosy and so full of optimistic projections they do not assume that there is going to be a hiccup in the road at any time.

I have to challenge this assumption. I have to bring some clarity to the debate. First, the fact that the U.S. economy is the envy of the world is due in large part to the fact that U.S. consumers are, indeed, confident, and armed with that confidence, they are spending in record numbers. That simply cannot last forever.

The other thing we have to look at is why and how are they spending money: dead instruments, credit cards, second mortgages, refinanced first mortgages, or a gain in stock values in the sale of equities yielding capital gains to themselves.

Today's editorial in the USA Today makes something very clear. I will include the entire editorial for consumption by those who would read the Journal.

Mr. Speaker, the problem is, Americans are not saving enough to support their spending. Household saving rates last year were the lowest since the Great Depression, and Americans are relying on the stock market to maintain their living standards. Many analysts, including Federal Reserve Chairman Alan Greenspan, maintained that stock values may be too high, and the bubble can burst at any time in the near future.

What happens then? Consumer spending will take a nosedive. We all know what will happen after that. The U.S. economy will go into a recession, government revenues will dry up, and all of a sudden, that rosy picture of the healthy economy and multiyear budget surpluses vanish. It vanishes. Again, that is where fantasy ends and reality picks up.

We have to understand that this is not a static economy; that things change. If we look at Asia, look at Brazil, look at Latin America, look at Mexico, look at Canada, look at the economies of all our major trading partners, we see deficiencies growing, problems with currencies growing. So the United States cannot be the savior of the entire world.

My point is this. While President Clinton may be able to make a case that the Federal Government can afford all of his new initiatives in the fiscal year 2000 budget, and I am skeptical of that, he certainly cannot guarantee that the U.S. taxpayers can afford them in the future.

We need to act responsibly in the good times to ensure that they last for future generations. We need to save social security now so we can afford to boost the national savings rate to maintain our strong economy. If we do the right thing we can do both at the same time, and the projected surpluses will in fact materialize.

There are two approaches that can accomplish this goal. I would personally prefer that all future surpluses be dedicated to retiring the debt to shore up social security. In the surplus years

we should guarantee social security recipients their full benefits, and at the same time we should create personal retirement accounts for future generations. These accounts will not only offset the long-term costs of social security, but they will also provide much-needed capital to keep the U.S. economy healthy.

Barring this approach, however, Congress should provide tax relief, and I understand tax relief. This is what Chairman Greenspan said to our Committee on Ways and Means last week in a hearing: ''If we have to get rid of the surpluses, I would prefer reducing taxes rather than spending it. Indeed, I don't think it's a close call.''

That question was posed to him because there was a notion somehow that all of the money should go to surplus to retire the debt. Mr. Greenspan clearly agreed with that premise. But then as he looked at the budget unfolding as produced by President Clinton that we are now reviewing, we see that all surpluses are going out the window. All programs are expanding. All are growing past the rate of inflation. All are looking at solving the world's and our national crises by infusing more dollars here in Washington, rather than sending it home.

Mr. Greenspan took strong exception, saying if there are surpluses and they are not to be used or will not be used for deficit reduction, then clearly they should go for tax reduction. I stand on the side of Mr. Greenspan.

Mr. Speaker, I include for the RECORD the article previously mentioned.

The article referred to is as follows:

SPENDING BUDGET SURPLUSES: WAIT UNTIL THEY'RE REAL

President Clinton's proposed $1.77 trillion budget released Monday, with its projections of $2.4 trillion surpluses over the next 10 years, has both parties ready prematurely to abandon fiscal prudence in exchange for votes in the year 2000 election.

Even the GOP's last holdout against huge tax cuts, Sen. Pete Domenici, R–NM, has joined the parade. While he condemned Clinton's budget as a return to an ''era of really big government,'' the chairman of the Senate Budget Committee has signed on to across-the-board tax cuts pushed by party leaders.

But just as stock market seers warn that market catastrophe usually follows the coaxing of the last pessimist to buy in, so may today's golden surpluses turn to lead. There's ample reason for caution, as the surpluses everyone is counting on aren't yet real.

THE PHONY SURPLUS

While both Clinton and Republicans pretended Monday that there is a surplus now, the general fund budget isn't predicted to be in balance until 2001.

Until then, the only surplus the government will be running is in Social Security.

It's an old trick. Government has for years covered up huge deficits by borrowing billions from excess payroll taxes paid into Social Security for baby boomer retirements and using them for daily operations.

The only difference over the next 10 years is that the $1.8 trillion in Social Security surpluses will make government's anticipated overall surpluses appear larger. That's how Clinton's budget achieves most of the supposed $2.4 trillion surplus.

The bottom line of the equation, though, is the same. Any spending increases or tax cuts will be paid by borrowing from Social Security, increasing the burden on future taxpayers when baby boomers retire.

Real general fund surpluses will be put off for years, and that's if forecasts are correct, unlikely considering past performance.

The Reagan administration, for instance, in its first budget in 1981 forecast a $29 billion surplus by 1986. A deep recession and fiscal irresponsibility by the administration and Congress produced a $221 billion deficit instead.

Since 1980, budget-surplus or deficit predictions have been off by an average $54 billion a year, or nearly 5%. Five-year predictions are even more iffy, being off an average 13%.

Counting on surpluses that haven't arrived thus amounts to a big gamble, especially in current economic conditions.

A BUBBLE ECONOMY?

Last month, the economy set a peacetime record for an expansion, eclipsing the mark set in the 1980s. But there are signs of bumpy times ahead. The rest of the globe continues to suffer from slow or falling growth. Asia remains in crisis, with Japan in recession. And teetering on the brink of another fiscal chasm is Brazil, key customer to Latin American economies to which U.S. exporters look for $240 billion in annual sales.

As a result, U.S. exports, which had been the key to U.S. growth through much of the 1990s, aren't likely to grow much. And as in the past two years, the U.S. and world economies will continue to depend on U.S. consumers buying more and more.

The problem: Americans aren't saving much to support their spending. Household savings rates last year were the lowest since the Great Depression. People are relying on stock market gains to maintain living standards.

Many market analysts, though, worry that current stock values, up threefold since 1993, aren't sustainable. And if the bubble bursts, consumer spending may head south.

For the budget, that could spell disaster. Capital gains tax receipts on stocks have jumped 130% since 1994, contributing heavily to a 50% increase in personal income taxes. Future surpluses rely on stock market gains leading to big, taxable pension payouts.

A fall in the market, a decline in consumer demand and a resulting recession would leave the government depending on Social Security to cover up its own deficits once again.

A year from now, with the world crisis eased or worsened, the picture will be clearer. But that doesn't fit the political calendar, which remains focused on the 2000 elections.

BUDGET BLOAT

The push to use up the surplus also would ease pressure on government to spend its money more efficiently.

Business leaders who looked into Defense operations, for example, found $30 billion in annual savings that would improve performance. But the reforms face tough sledding in the Defense bureaucracy and Congress if Clinton and Congress ease spending caps.

Similarly, the General Accounting Office of Congress has pinpointed billions in savings in agencies handling everything from food inspections to housing to transportation. They may not see the light of day if Clinton and Congress no longer have to pay for new programs by achieving savings in old ones.

The possibility of huge budget surpluses is not a reason to return to old spendthrift ways that built up the $5.6 trillion national debt.

As Federal Reserve Chairman Alan Greenspan said last week, the best thing government can do with any extra money is pay down that debt. The proposed budget, though, continues to fund the debt with Social Security surpluses, not eliminate it as celebrants suggest.

To really pay it down, the government needs to run a real surplus. And that simply hasn't happened yet.

ZEALOTRY HAS AGAIN SHUT DOWN MUCH OF AMERICA'S GOVERNMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Texas (Mr. DOGGETT) is recognized during morning hour debates for 5 minutes.

Mr. DOGGETT. Mr. Speaker, during the first dreadful year of the Republican takeover of this Congress, zealots right here in this House insisted on shutting down the government of the United States of America, causing considerable disruption and attracting a rather considerable and well-justified indignation and public outrage on the part of the American people.

I believe that America needs to know that this same brand of zealotry has again shut down a large part of our American government. During the month of January, the Congress of the United States did not approve one single bill.

This Congress indeed failed to even consider or debate here in the House a single piece of legislation; not improvements on the quality of public education, not a consumer bill of rights to help those who have been mismanaged by managed care in this country, not reform of our campaign finance system that is at the heart of so much wrong in what happens in this Congress. Not anything was done in this Congress.

Indeed, the leadership of this House has announced within the last few days that it plans to put campaign finance reform on the back burner, the same method that was used to strangle reform in 1998 and the years before under Republican control of this Congress.

While most Americans are out there working at least an 8-hour day, this House of Representatives worked on this floor during the month of January an 8-hour month. That is right, the House met here in session to work on the problems of the American people about the same amount of time in the entire month as the ordinary American worked in one single day.

Keep in mind that this inaction on the part of the Congress follows the

year of 1998, a year which has been hailed by historians as perhaps the most unproductive and irresponsible of any year in the history of the Congress in the post World War II era. This is a Congress that, for the first time in 30 years of having a Budget Act, was not even able to agree on a Federal budget resolution because of an internal struggle in the Republican caucus here in the House between the far right and the not-so-right.

After failing to gain approval of a variety of schemes, this was a Republican House whose major accomplishment in 1998 was the passage of something called the Omnibus Appropriations Bill. That was the one that weighed in here at 40 pounds, almost broke the table up here at the front of the Congress, and which was presented in such a fashion that few if any Members knew what was in it until weeks later, as the reporters began to discover all the pork that was laden in this allegedly conservative bill.

Undoubtedly some Americans are going to be pleased to hear that this Congress is shut down and not doing anything, instead of approving that kind of nonsense. No doubt there will be some on the fringes who really believe the government should do nothing that will be very pleased that their dreams have been realized and that this House is largely doing nothing.

February, well, it does not look noticeably better. Under the best of circumstances, this House may convene for a few hours on about 10 days to approve a few largely uncontested bills.

Today, for example, we will pass the first piece of legislation in this Congress. It is a measure that we are approving, reapproving today, in the very same words that we approved unanimously last year. For some reason the Senate never got around to considering it.

Tomorrow we will replace one stopgap measure approved last fall with another stopgap measure to carry us forward just a few more months until the House finally gets down to work to develop a meaningful bipartisan long-term solution to the transportation problem.

I would say that even if we gave Ken Starr another $50 million or so to waste, I do not even believe he could find anything notable that this House has done in the opening weeks of 1999 to help the ordinary American citizen. Most of the folks that I represent down in central Texas would prefer to see their Representatives in this House, the people's House, tending to the Nation's business.

The President has outlined what I think are a number of very important budget priorities throughout December and January. I believe they demand our attention and debate. He has emphasized the importance of conserving the surplus, letting it build up. I believe we should do that. I believe it is time to stop the shutdown of this House and get back to the Nation's business.

HOW LONG WILL THE WAR WITH IRAQ GO ON BEFORE CONGRESS NOTICES?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Texas (Mr. PAUL) is recognized during morning hour debates for 5 minutes.

Mr. PAUL. Mr. Speaker, I ask my fellow colleagues, how long will the war go on before Congress notices? We have been bombing and occupying Iraq since 1991, longer than the occupation of Japan after World War II. Iraq has never committed aggression against the United States.

The recent escalation of bombing in Iraq has caused civilian casualties to mount. The Clinton administration claims U.N. resolution 687, passed in 1991, gives him the legal authority to continue this war. We have perpetuated hostilities and sanctions for more than 8 years on a country that has never threatened our security, and the legal justification comes from not the U.S. Congress, as the Constitution demands, but from a clearly unconstitutional authority, the United Nations.

In the past several months the airways have been filled with Members of Congress relating or restating their fidelity to their oath of office to uphold the Constitution. That is good, and I am sure it is done with the best of intentions. But when it comes to explaining our constitutional responsibility to make sure unconstitutional sexual harassment laws are thoroughly enforced, while disregarding most people's instincts towards protecting privacy, it seems to be overstating a point, compared to our apathy toward the usurping of congressional power to declare and wage war. That is something we ought to be concerned about.

A major reason for the American Revolution was to abolish the King's power to wage war, tax, and invade personal privacy without representation and due process of law. For most of our history our presidents and our Congresses understood that war was a prerogative of the congressional authority alone. Even minimal military interventions by our early presidents were for the most part done only with constitutional approval.

This all changed after World War II with our membership in the United Nations. As bad as it is to allow our presidents to usurp congressional authority to wage war, it is much worse for the President to share this sovereign right with an international organization that requires us to pay more than our fair share while we get a vote no greater than the rest.

The constitution has been blatantly ignored by the President while Congress has acquiesced in endorsing the 8-year war against Iraq. The War Powers Resolution of 1973 has done nothing to keep our presidents from policing the world, spending billions of dollars, killing many innocent people, and jeopardizing the very troops that should be defending America.

The continual ranting about stopping Hussein, who is totally defenseless against our attacks, from developing weapons of mass destruction ignores the fact that more than 30,000 very real nuclear warheads are floating around the old Soviet empire.

Our foolish policy in Iraq invites terrorist attacks against U.S. territory and incites the Islamic fundamentalists against us. As a consequence, our efforts to develop long-term peaceful relations with Russia are now ending. This policy cannot enhance world peace. But instead of changing it, the President is about to expand it in another no-win centuries-old fight in Kosovo.

It is time for Congress to declare its interest in the Constitution and take responsibility on issues that matter, like the war powers.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 30 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 p.m.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

May Your gifts of goodness and peace, O God, be upon us and all people; may Your blessings of joy and happiness be and abide with us all; may Your abundant favor touch every person in the depths of their hearts; and may Your comfort bring healing and assurance to all in need. Above all the noise of each day and above any clash or contention, we are thankful that Your still small voice strengthens and ministers to us in our very souls. For this we are eternally grateful. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio (Mr. TRAFICANT) come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 20, 1999.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 20, 1999 at 11: 45 a.m.

That the Senate passed without amendment H. Con. Res. 11.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 29, 1999.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 29, 1999 at 1:00 p.m.

That the Senate passed S. Res. 30.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk.

APPOINTMENT OF MEMBERS TO INVESTIGATIVE SUBCOMMITTEES OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER. Pursuant to the provisions of clause 5(a)(4)(A) of rule X and the order of the House of Tuesday, January 19, 1999, the Speaker on Thursday, January 28, 1999 named the following Members of the House to serve on investigative subcommittees of the Committee on Standards of Official Conduct for the 106th Congress:

Mrs. BIGGERT of Illinois,
Ms. GRANGER of Texas,
Mr. HASTINGS of Washington,
Mr. HULSHOF of Missouri,
Mr. LATOURETTE of Ohio,
Mr. MCCRERY of Louisiana,
Mr. MCKEON of California,
Mr. SESSIONS of Texas,
Mr. SHIMKUS of Illinois, and
Mr. THORNBERRY of Texas.

COMMUNICATION FROM HON. RICHARD A. GEPHARDT, DEMOCRATIC LEADER

The SPEAKER laid before the House the following communication from RICHARD A. GEPHARDT, Democratic Leader:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 26, 1999.

Hon. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to clause 5(a)(4)(A) of Rule X of the Rules of the House of Representatives I designate the following Members to be available for service on an investigative subcommittee of the Committee on Standards of Official Conduct:

Mr. CLYBURN of South Carolina,
Mr. DOYLE of Pennsylvania,
Mr. EDWARDS of Texas,
Mr. KLINK of Pennsylvania,
Mr. LEWIS of Georgia,
Ms. MEEK of Florida,
Mr. STUPAK of Michigan,
Mr. TANNER of Tennessee.

Two additional Members will be so designated at a later time.

Sincerely,

RICHARD A. GEPHARDT,
Democratic Leader.

APPOINTMENT OF MEMBER TO BOARD OF TRUSTEES OF THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The SPEAKER. Pursuant to the provisions of section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)) and the order of the House of Tuesday, January 19, 1999, the Speaker on Tuesday, January 26, 1999 appointed the following Member of the House to the Board of Trustees of the John F. Kennedy Center for the Performing Arts:

Mr. HASTERT of Illinois.

ELECTION OF MEMBER TO COMMITTEE ON VETERANS' AFFAIRS

Mr. FROST. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 29) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 29

Resolved, That the following named Member is, and is hereby, elected to serve on the standing committee as follows:

Committee on Veterans' Affairs: Ms. BERKLEY, Nevada.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PLEDGE TO WORK HARD FOR CALIFORNIA'S 41ST CONGRESSIONAL DISTRICT

(Mr. GARY MILLER of California asked and was given permission to address the House for 1 minute.)

Mr. GARY MILLER of California. Mr. Speaker, it is a great honor for me to be here as an elected representative of California's 41st Congressional District. Here, in the greatest representative body in the world, Members of the 106th Congress have a great deal of responsibility to the American people.

It is my intention to work in a bipartisan manner on some of the key issues facing us today. I will work to reduce government waste, bureaucracy, and red tape. I will work towards reducing the tax burden on the American people. For the senior citizens of my district, I promise to focus on saving Social Security. I will work to reform managed health care.

As a member of the House Committee on Transportation and Infrastructure, I will work with members of the California delegation to maintain Ontario International Airport and reduce traffic congestion on our region's interstate highways.

As a member of the House Committee on Science, I pledge to work towards maintaining our space program as well as ensuring that our country leads the world in technological innovation.

Finally, I wish to thank my family, friends, and the people of the 41st Congressional District for their guidance and their support.

To the people of my district, I pledge to you that I will work for your interest and will continue to earn your support.

IMF WANTS TO AID IRAQ

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it is time to throw up. That is right. Check this out. Uncle Sam gives billions to the International Monetary Fund. Reports now say that the IMF wants to give billions of dollars in aid to Iraq. That is right, Iraq.

And you guessed it, the same reports say the White House has, quote-unquote, given their blessing. Unbelievable. While the White House bombs Iraq, the White House is supporting billions of dollars for Saddam Hussein. Beam me up. Who is on first, Mr. Speaker? What is on second?

Mr. Speaker, I yield back evidently all the advice the White House is getting from Larry, Moe, and Curly.

OPPOSE H.R. 45, NUCLEAR WASTE POLICY ACT OF 1999

(Mr. GIBBONS asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the month of January of this year has already come and gone. In just that one month, there have been seven major earthquakes in Yucca Mountain, Nevada. This is a site where this city's powerful nuclear waste lobbyists want to bury their nuclear waste.

This should not be a surprise, however, because Yucca Mountain, you see, is a mountain. It is not geologically stable. In fact, it is a mountain that is tectonically active.

Jerry Szymanski, a former Department of Energy geologist, said seismic design for a facility to transfer nuclear waste canisters above ground at Yucca Mountain is not possible there. He said, with 32 faults in the area, the mountain is capable of a magnitude 8.5, folks, earthquake, and poses too many risks and variables to design seismic standards.

Realize that one does not store nuclear waste in an area that ranks third in the country for seismic activity, an area that has more than 621 earthquakes in the past 20 years, and an area that had seven earthquakes in less than 30 days.

Oppose H.R. 45, my colleagues. This could weigh heavily on my colleagues' souls.

TRIBUTE TO RONALD DONNELL WALKER

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute.)

Mrs. JONES of Ohio. Mr. Speaker, I rise today, my first opportunity to speak from this well, on a solemn note, to memorialize and make part of the CONGRESSIONAL RECORD the life of the late Ronald Donnell Walker, the husband of my sister, Barbara Walker, and my brother-in-law.

Ronald Walker, who we affectionately call Uncle Ron, was born in Chattanooga, Tennessee on October 20, 1947. He attended Chattanooga public schools, graduating from Howard High School in 1965.

He attended Morris Brown College in Atlanta, Georgia where he majored in history and excelled at football. Upon graduation, he was drafted by the Detroit Lions football organization. However, his football career was cut short by a football injury.

In 1970, Ron married his college sweetheart, my sister, Barbara Tubbs. From this union, one son, Khari Walker, was born.

Ron was a certified property manager, and his professional career took his family to many cities. In each of these cities, he became actively involved with the church.

Ronald and Barbara were a team. When you asked for one, you always got two. So it was, from the beginning of their marriage right up to the end.

My sister Barbara was my campaign manager in my successful bid for Congress. It is as a result of their hard work that I stand before my colleagues today.

Most recently, Ron organized a bus trip to Washington for the 106th Congress swearing in. My last opportunity to see him. Thank God it was a joyous occasion, and all of my family was here to witness it.

God blessed me and the 11th Congressional District with this wonderful couple. I know that his work on earth will bring heavenly rewards.

Mr. Speaker, I include Ron's obituary for the CONGRESSIONAL RECORD.

The document is as follows:

THE OBITUARY OF RONALD DONNELL WALKER

Ronald Donnell Walker, son of Lenora Walker and the late John H. Walker, was born October 20, 1947, in Chatanooga, Tennessee. Ron attended Chatanooga public schools, graduating from Howard High School in 1965. He attended college at Morris Brown College in Atlanta, Georgia, where he majored in History and excelled at football. Ron was a member of Omega Psi Phi Fraternity Inc. and was nicknamed Ron ''Freeway'' Walker. He graduated in 1969 and was drafted by the Detroit Lions football organization. His football career was cut short by a football injury. He then began to pursue a career in property management.

In 1970 Ron married his college sweetheart, Barbara Tubbs. To this union, one son, Khari Walker, was born. The Walkers lived in many cities beginning in Cleveland, later moving to Atlanta, Washington, D.C., Hartford, back to Cleveland, Dayton, Pittsburgh and most recently, to Cleveland again. Ron was very active in the campaign to elect Congresswoman Stephanie Tubbs Jones (OH–11) and had recently returned from the official congressional swearing-in in Washington, D.C.

Ron professed his faith at an early age. In each city, in which the family lived, he found a church home and became very active. At First Baptist Church in Hartford, he was an ordained deacon and member of its housing corporation. In Dayton, Ron joined Canaan Missionary Baptist Church, in Pittsburg, Mount Arat Baptist Church. Each time they returned to Cleveland, Ron and Barbara reunited with Bethany Baptist Church, where he served as a deacon and she served as a missionary. They both worked with the pastor's aid and with the young people of Bethany.

Ron was devoted to his family and he left a host of family and friends to celebrate his life. Among them are his wife of twenty eight (28) years, Barbara Walker, sons, Khari Walker (Atlanta, GA.) and Kevin Erskine (Deborah, Murfreesboro, Tenn.) and three granddaughters, Jalysa, Jenne and Jenysa. He is also survived by his mother, Lenora Walker (Chatanooga, Tenn.), two sisters Julia Tousaint (New York, N.Y.) and Althea Jackson (Chatanooga, Tenn.), one brother, Rev. Anthony Walker (Lagail, Atlanta, GA.), one aunt, Dorothy Gilliam (Queens, N.Y.) his in-laws, Mr. and Mrs. Andrew Tubbs (Mary) sisters-in-law, Stephanie Tubbs Jones (Mervyn and Mervyn II) and Mattie Still (Robert, San Francisco, CA.). His brother, John H. Walker Jr. predeceased him.

Ron loved the Lord and he let his work speak for him. His generous size camouflaged his gentle mature. His captivating smile and infectious personality will be missed by all.

BRONCOS SUPER BOWL VICTORY

(Mr. TANCREDO asked and was given permission to address the House for 1 minute.)

Mr. TANCREDO. Mr. Speaker, although the rules of the House prevent me from donning this beautiful chapeau, I will hold it here nonetheless for the world to see.

Mr. Speaker, last Sunday in front of 75,000 fans in Miami and before around 800 million or so around the globe, a group of men from Colorado gave a clinic in the art of football. Of course I am speaking of the world champion Denver Broncos who convincingly passed, ran, and kicked for a 34 to 19 Super Bowl victory.

In a football season where many were calling on the NFL to bring back the instant replay, the Broncos did, and they have matching trophies to prove it.

This does not surprise anyone from my home State, but others had to learn the hard way that you cannot beat a balanced attack or a defense that only allows 25 points during the entire post season.

In conclusion, Mr. Speaker, I would like to point out to my colleagues that no NFL team has ever won three Super Bowls in a row. Next year, however, this standard of dominance could finally fall, but only to one team, the Denver Broncos. Speaking as a Coloradan, this is how it should be. I look forward to coming back to the floor one year from today and honoring the Broncos again.

GUADALUPE-HIDALGO TREATY LAND CLAIMS ACT OF 1999

(Mr. UDALL of New Mexico asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce a bill to right long-standing injustices. One hundred fifty-one years ago the Treaty of Guadalupe-Hidalgo was signed by the United States of America and the Republic of Mexico. In that the government, our government, promised to respect and protect the culture, property rights and language of the residents who would later become United States citizens.

These promises by our government were broken. Many land grant communities no longer exist. Many individuals have lost their land. This bill starts the long process to resolve these disputes and to bring our government in line with its treaty obligations.

Exactly 151 years ago today, the United States and Mexico signed the Treaty of Guadalupe-Hidalgo, officially ending the Mexican-American war.

Under the treaty, signed February 2, 1848, Mexico ceded to the United States more than 525,000 square miles of land, including all of what is now California, Nevada and Utah, as

well as parts of four other states including my state of New Mexico.

As part of the treaty, the United States also agreed to honor the land holdings of the existing residents of its vast new territory. In many cases, however, the government ignored that pledge and the protections provided by the Constitution as more and more new settlers moved into this land covered by numerous Mexican and Spanish land grants.

Mr. Speaker, for 151 years, the United States government has turned its back on this issue. For 151 years, land grant heirs of New Mexico have cried out for justice.

Robert Kennedy once said that ''Justice delayed is democracy denied.''

Mr. Speaker, it is time to stop denying the full blessings of democracy to the land grant heirs. It's time to start hearing their cries.

In 1997, then-Representative Bill Richardson of New Mexico introduced legislation that would create a Presidential Commission to study the claims of the land grant heirs.

Last year, my predecessor, Mr. Redmond, introduced similar legislation in this body. With tremendous bipartisan support, the Guadalupe-Hidalgo Treaty Land Claims Act of 1998 passed overwhelmingly. Its supporters and cosponsors included not only the current Speaker of the House, but former Speaker Gingrich and members of the leadership of both parties.

With the passage of this bill, the House of Representatives sent a clear message that it was time to undo 151 years of injustice.

Unfortunately, Mr. Speaker, the legislation never made it through the Senate. And so I stand here today urging my colleagues to once again take a stand for justice.

The bill I introduce today is substantively the one passed by this body last year. The bill will:

(1) Create a five person Presidential Commission, called the Guadalupe Hidalgo Treaty Land Claims Commission, to review the claims of the land grant heirs.

(2) This commission will examine land claims, made by three or more eligible descendants of the same community land grant.

(3) The members of the commission will be appointed by the President by and with the advice of the Senate.

(4) The bill also creates a Community Land Grant Study Center at the Onate Center in Alcalde, New Mexico. The center will provide the means by which to conduct research, study and investigate the land grant claims.

(5) The bill authorizes a total of $8 million over the next eight years to pay for this.

This bill is a beginning, Mr. Speaker. It is my hope that this bill will be the conduit to continue to focus on this issue. I am confident that this body, and specifically members of the New Mexico delegation, can work together on this important matter.

Mr. Speaker, this bill rights a wrong. It creates a Presidential Commission to study the claims of the land grant heirs whose land was improperly taken over the past 151 years in the absence of protection by the U.S. government over the past 151 years.

It is time for our government to stop turning its back on the people of New Mexico. It is time for our government to stop turning its back on the Constitution.

Simply, Mr. Speaker, it is time for Congress to do the right thing.

This bill creates a commission that will evaluate each individual claim and make recommendations to Congress for final consideration.

It provides a fair solution. It provides a reasonable solution. And most importantly, Mr. Speaker, it provides a just solution.

POLL REVEALS AMERICAN WOMEN ARE CONSERVATIVE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I would like to share with my colleagues the results of a recent poll conducted by the Princeton Research Association for the Center for Gender Equity.

Mr. Speaker, the poll found that 53 percent of the females who responded thought abortion should be allowed only in cases of rape, incest, and to save the life of the mother. This is up from 45 percent in 1996.

Forty-one percent believe the issues that the Christian Coalition stands for would improve the lives of women, compared with 18 percent who said the group's issues make the lives of women worse.

Seventy-five percent said religion is very important in their lives, compared to 69 percent just two years ago. And 46 percent said politicians should be guided by religious values, compared to 32 percent six years ago.

To quote my former colleague, Randy Tate, ''We are the mainstream. When two-thirds of American women agree with our agenda, even when they are asked by a liberal organization about us in their own poll, that is all the proof anyone needs.''

I call these statistics to my colleagues' attention. I think it shows that American women are moving in a conservative stream.

□ 1415

SIERRA LEONE AND INTRODUCTION OF BILL DEALING WITH JOB LOSS INITIATIVE TASK FORCE ACT

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, in Sierra Leone we have seen rebel offenses going after civilians day after day after day. Three thousand civilians dead have created a terrible, terrible tragedy in Sierra Leone and has created an acute need for medicine and health care and sanitation in this war-ravaged African nation. Rebels are attacking Sierra Leone's democratically-elected government. And so this week, Mr. Speaker, I will ask the State Department to do a thorough review of this tragedy and recommend solutions to this Congress that will protect these innocent people.

Domestically, Mr. Speaker, let me turn to another subject very quickly and talk of the thousands of layoffs in this country. Although the economy is good, we have seen the energy industry losing thousands of jobs. We have seen the aviation industry losing thousands of jobs. This week, Mr. Speaker, I propose to file a bill entitled the Job Loss Initiative Task Force Act to help those around the Nation who have lost their jobs be prepared for the 21st century with a variety of specific programs that will assist them to secure training and then new jobs so that they, too, can be part of this good economy.

PRESCRIPTION DRUGS

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I would like to take the opportunity to talk about a serious problem not only in my own district but around the country. Last week in our district in Houston we released statistics showing the high cost that fee-for-service Medicare recipients pay for prescription drugs. The minority staff of the Committee on Government Reform and Oversight conducted an investigation in the 29th District of Texas and found that seniors pay inflated prices for medication that they need to maintain their health. The five best-selling drugs for older Americans are almost twice as expensive as the prices drug companies charge their most favored customers, including the United States Government.

The fundamental problems with finding affordable prescriptions for seniors are that seniors should not be forced into a managed care program just because they cannot afford their prescriptions. Many seniors around the country do not even have the opportunity to join an HMO because it is not servicing their area. MediGap insurance premiums that cover prescriptions are exceedingly too high.

In the last Congress there was legislation introduced by the gentleman from Texas (Mr. TURNER), and I cosponsored it, which would have made critical drugs more affordable to seniors. Whether we consider this proposal or another, this Congress needs to address this issue for Medicare seniors.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURR of North Carolina). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to

suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

SMALL BUSINESS INVESTMENT COMPANY TECHNICAL CORRECTIONS ACT OF 1999

Mr. TALENT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 68) to amend section 20 of the Small Business Act and make technical corrections in title III of the Small Business Investment Act, as amended.

The Clerk read as follows:

H.R. 68

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Investment Company Technical Corrections Act of 1999''.

SEC. 2. SBIC PROGRAM.

(a) IN GENERAL.—Section 308(i)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 687(i)(2)) is amended by adding at the end the following: ''In this paragraph, the term 'interest' includes only the maximum mandatory sum, expressed in dollars or as a percentage rate, that is payable with respect to the business loan amount received by the small business concern, and does not include the value, if any, of contingent obligations, including warrants, royalty, or conversion rights, granting the small business investment company an ownership interest in the equity or increased future revenue of the small business concern receiving the business loan.''.

(b) FUNDING LEVELS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (d)(1)(C)(i), by striking ''$800,000,000'' and inserting ''$1,200,000,000''; and

(2) in subsection (e)(1)(C)(i), by striking ''$900,000,000'' and inserting ''$1,500,000,000''.

(c) TECHNICAL CORRECTIONS.—Title III of the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) is amended—

(1) in section 303(g) (15 U.S.C. 683(g)), by striking paragraph (13);

(2) in section 308 (15 U.S.C. 687) by adding at the end the following:

''(j) For the purposes of sections 304 and 305, in any case in which an incorporated or unincorporated business is not required by law to pay Federal income taxes at the enterprise level, but is required to pass income through to its shareholders or partners, an eligible small business or smaller enterprise may be determined by computing the after-tax income of such business by deducting from the net income an amount equal to the net income multiplied by the combined marginal Federal and State income tax rate for corporations.''; and

(3) in section 320 (15 U.S.C. 687m), by striking ''6'' and inserting ''12''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. TALENT) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri (Mr. TALENT).

Mr. TALENT. Mr. Speaker, this is an important measure, but before we get to it, I yield such time as he may consume to the gentleman from Ohio (Mr. TRAFICANT) who has another very important subject he wishes to discuss before the House.

(Mr. TRAFICANT asked and was given permission to speak out of order.)

TRIBUTE TO CHARLES BILLY MALRY

Mr. TRAFICANT. Mr. Speaker, I want to thank the distinguished gentleman for yielding me this time, and I rise to pay tribute to one of ours that has passed on, Charles Billy Malry, the gentleman, the tall black fellow that stood there working for the Clerk who for many years, 16 years, served this House. Five children he leaves, grandchildren, but more importantly he loved boxing, he loved photography, but he loved this House and he loved, admired and respected the Members of this House.

On behalf of everyone who knows Bill and was a friend of Bill, who always had a smile and always engaged us, always willing to contact us for need and to all his family, our deepest sympathy. The House will certainly miss his tremendous service.

Mr. TALENT. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman for remembering Mr. Malry. It is a good opportunity for us all to remember the staff who supports our work and supports the work we do on behalf of the country. They are, in a very enduring sense, the House, and the Congress, and I appreciate the gentleman and his comments and join them.

Mr. Speaker, let me begin by thanking my colleague, the ranking member on the Committee on Small Business, the gentlewoman from New York (Ms. VELÁZQUEZ), for her assistance in moving the bill and her help in fashioning it.

Mr. Speaker, the purpose of H.R. 68 is to make technical corrections to Title III of the Small Business Investment Act. Title III authorizes the Small Business Investment Company program. Small business investment companies, or SBICs, are venture capital firms licensed by the Small Business Administration that use SBA guarantees to leverage private capital for investment in small businesses. The technical corrections proposed by H.R. 68 will improve the flexibility of the SBIC program and allow increased access to this program by small business.

Congress revamped the SBIC program during the 103rd Congress to provide for a new form of leverage geared specifically toward equity investment in small businesses. Over the past few years as the new program has become established, certain deficiencies have come to light; and, in addition, certain statutory provisions have become obsolete.

H.R. 68 seeks to correct these deficiencies and remove provisions that may produce confusion due to changes in law and the character of the SBIC program.

First, H.R. 68 will modify the SBIC program to exclude contingent obligations from the calculation of interest and loans made by SBICs. These contingent obligations include financial tools like royalties, warrants, conversion rights and options.

Second, under H.R. 68, a provision in the Small Business Investment Act that reserves leverage for smaller SBICs will also be repealed. Changes in SBA policy regarding applications for leverage, statutory changes in the availability of commitments for SBICs and the makeup of the industry present the possibility that that provision may in fact create conflicts and confusion.

Third, H.R. 68 will increase the authorization levels for the participating securities segment of the SBIC program. The authorization levels will rise from $800 million to $1.2 billion in fiscal year 1999 and from $900 million to $1.5 billion in fiscal year 2000. These increases are necessary to meet the rising demand for this section of the SBIC program. Mr. Speaker, they in no way reflect the general revenue subsidy, simply the amount in the authorization levels for the program itself.

Fourth, H.R. 68 modifies the test for determining the eligibility of small businesses for SBIC financing. Current statutory language does not account for small businesses organized in pass-through tax structures such as S corporations, limited liability companies and partnerships.

Finally, H.R. 68 will allow the SBA greater flexibility in issuing trust certificates to finance the SBIC program's investments in small businesses. Current law allows fundings to be issued every 6 months or more frequently. This inhibits the ability of the SBICs and the SBA to form pools of certificates that are large enough to generate serious investor interest. Allowing more time between fundings will permit SBA and the industry to form larger pools for sale in the market, thereby increasing investor interest and improving the interest rates for the small businesses financed.

Mr. Speaker, this bill is important work. It will have a real impact on the businesses in this country seeking start-up financing and, at the end of the day, that is the most important part of our job.

Let me again thank the gentlewoman from New York (Ms. VELÁZQUEZ) and her staff for their assistance in moving the measure before us.

Mr. Speaker, I urge my colleagues to support H.R. 68.

Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume. I would like to thank the gentleman from Missouri for moving forward this bill in a bipartisan process and including me in this process.

I rise in strong support of H.R. 68, the Small Business Investment Company Technical Corrections Act. As a cosponsor of last year's bill and an original cosponsor of this legislation, I strongly support the improvements we will consider to the Small Business Investment Act and the Small Business Investment Company program today. These changes will only serve to make the SBIC program more efficient and responsive to the needs of small entrepreneurs.

There is no question that the value of SBICs has been felt across this Nation. SBICs have invested nearly $15 billion in long-term debt and equity capital to over 90,000 small businesses. Over the past years, SBICs have given companies like Intel Corporation, Federal Express and America Online the push they needed to succeed. And because of SBICs, millions of jobs have been created and billions of dollars have been added into our economy.

Even as America experiences the longest period of economic growth in decades, there are still many disadvantaged urban and rural communities that are being left behind. One way of bringing economic development and prosperity to more Americans is through the SBIC program.

In fact, SBICs are such a powerful tool that the President's new economic development initiative for these distressed communities, which he announced in the State of the Union address, is based on the solid framework of the SBIC program. By passing today's legislation, we are answering the President's challenge and making it easier for small businesses, especially in those targeted urban and rural areas, to access the capital that they need.

Today's legislation ensures that the next Fed Ex's and AOLs of this country continue to have a fighting chance. The proposal is simple. It will make five technical corrections to the Small Business Investment Company Act that will help SBICs and small businesses alike. By streamlining the process and increasing flexibility, SBICs will be able to creatively finance more businesses.

The changes under discussion today will provide SBICs and small business with important tools like equity features. This proposal will not only improve a business' cash flow but will also create a sound investment for the SBIC.

Recently we have also seen the SBIC program expand into new areas. Last year we witnessed the creation of two women-owned SBICs and the establishment of the first Hispanic-owned firm. By increasing funding levels, we can build on the growing popularity of the SBIC program and make it a vehicle for achieving greater investment returns from historically underserved markets, such as women, minorities and inner cities.

Additionally, by giving the SBIC program greater flexibility and ensuring investment guarantees, small businesses will be assured lower interest rates. The bill also confirms that most small businesses, regardless of their chosen business form, are eligible for SBIC financing.

Finally, we would clarify SBA's role in ensuring equitable distribution and management of its participating securities to SBICs of all sizes. These changes are part of an ongoing process that will enable us to provide creative financing to more small businesses more efficiently.

I am pleased to join the distinguished chairman in support of the proposed correction, and I urge the adoption of this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, first of all let me commend the gentleman from Missouri (Mr. TALENT) and the gentlewoman from New York (Ms. VELÁZQUEZ) for bringing this important legislation to the floor.

I rise today in support of H.R. 68, the Small Business Investment Company Technical Corrections Act. Congress created the Small Business Investment Company program to ensure that independent small businesses have access to long-term financial and venture capital resources. In my district as well as districts throughout America, there are many small businesses eager to take advantage of these resources, resources that have been made available to them by SBICs which offer a wealth of opportunity, such as long-term loans of up to 20 years, all funds for working capital and equipment, or help for companies to expand or renovate their facilities.

Mr. Speaker, I believe that this bill will add another layer of financing for our Nation's budding small businesses. I urge all of my colleagues to vote in favor of it.

We all know that small businesses are the foundation of our economy, and any effort to keep them alive, viable and thriving is worthy of our support and the support of all Members of this distinguished body. Therefore, again, I am pleased to join with my colleagues on the Committee on Small Business.

Again, I commend and congratulate the chairman, the gentleman from Missouri (Mr. TALENT) and the ranking member, the gentlewoman from New York (Ms. VELÁZQUEZ), and urge passage of this important legislation.

Ms. VELÁZQUEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. MOORE).

Mr. MOORE. Mr. Speaker, today I am speaking in support of H.R. 68, the Small Business Investment Company Technical Corrections Act, because the success of small businesses is ultimately linked to their ability to obtain investment capital.

The Small Business Investment Act has largely met the growing demands to obtain credit and equity investment capital. This is evident in my own district where an SBIC, Kansas City equity partners, invested in Organized Living, a local storage organization business. Today, through the assistance of the SBIC, this business has grown to a 6-store, 20-plus million dollar storage company.

The changes offered in this bill will strengthen these public/private partnerships to provide small businesses like Organized Living greater access to investment capital. It will also lower interest rates on loans and better cash flow. These improvements will allow small businesses to continue to create jobs and add billions of dollars to our economy.

Mr. Speaker, as a newly-appointed member of the Committee on Small Business and an original cosponsor of H.R. 68, I urge my colleagues to support this measure.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the biggest challenge facing our Nation's business is access to capital. For small businesses, access to capital means access to opportunity, and by passing the Small Business Investment Company Technical Corrections Act today, we can take an important step toward giving small businesses a chance to take advantage of that opportunity.

The SBIC program has an impressive history of helping small businesses grow and expand. The work done by SBIC is especially critical now as everyday more and more private venture dollars are sent overseas to help support companies that compete with U.S. businesses.

The SBIC program helps level the playing field for American business by focusing solely on helping domestic small businesses. These are companies that create the bulk of American jobs.

Furthermore, SBICs fill a unique gap by providing capital to companies that need smaller loans which are not generally made by large banks or lending institutions. The competitiveness that SBIC provides our small businesses helps strengthen our American economy.

The changes that will result from H.R. 68 will provide SBICs with the flexibility to offer more loans, increase the amount of available funding and lower interest rates.

Today's measure will help SBICs build on their already impressive work

and pave the way for future small business success stories. I urge everyone to support the Small Business Investment Company Technical Corrections Act. Vote yes on H.R. 68.

Mr. Speaker, I yield back the balance of my time.

Mr. TALENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have had discussion here on the floor about the importance of this bill, and I appreciate the gentlewoman's comments about the importance of this program. It is the only equity investment program as opposed to loan program in which the Federal Government plays a part for small business and it is therefore particularly important.

Those of us who are familiar with small business start-ups and expansion know that there are many small businesses that need investment, rather than additional loans. They are carrying enough debt but they needed some additional money put into the business. The SBIC program is the avenue for accomplishing that. We have nurtured it and shepherded it over the years and it is doing extremely well.

This bill is necessary in order for the program to continue moving forward, and I would appreciate the House's support for H.R. 68.

Once again, I want to express my appreciation to the distinguished gentlewoman from New York (Ms. VELÁZQUEZ).

Mr. Speaker, I have no more speakers and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BURR of North Carolina). The question is on the motion offered by the gentleman from Missouri (Mr. TALENT) that the House suspend the rules and pass the bill, H.R. 68, as amended.

The question was taken.

Mr. TALENT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

DANTE B. FASCELL NORTH-SOUTH CENTER

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 432) to designate the North/South Center as the Dante B. Fascell North-South Center

The Clerk read as follows:

H.R. 432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NORTH/SOUTH CENTER AS THE DANTE B. FASCELL NORTH-SOUTH CENTER.

Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2075) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) SHORT TITLE.—This section may be cited as the ''Dante B. Fascell North-South Center Act of 1991'';

(2) in subsection (c)—

(A) by amending the subsection heading to read as follows: ''DANTE B. FASCELL NORTH-SOUTH CENTER.—''; and

(B) by striking ''known as the North/South Center,'' and inserting ''which shall be known and designated as the Dante B. Fascell North-South Center,''; and

(3) in subsection (d), by striking ''North/South Center'' and inserting ''Dante B. Fascell North-South Center''.

SEC. 2. REFERENCES.

(a) CENTER.—Any reference in any other provision of law to the educational institution in Florida known as the North/South Center shall be deemed to be a reference to the ''Dante B. Fascell North-South Center''.

(b) SHORT TITLE.—Any reference in any other provision of law to the North/South Center Act of 1991 shall be deemed to be a reference to the ''Dante B. Fascell North-South Center Act of 1991''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Connecticut (Mr. GEJDENSON) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with a great deal of pleasure that I bring a bill before the House to honor our esteemed former colleague, the distinguished chairman of the Committee on International Relations, Dante Fascell. Our friend and colleague, Dante Fascell, regrettably passed away on November 29 after a long illness. On October 29, one month before Congressman Fascell died, President Clinton honored him at Cape Canaveral, Florida, with our Nation's highest civilian honor, the Medal of Freedom. Well over 100 Members of Congress signed what the White House termed the most bipartisan petition for the Medal of Freedom that they had ever seen.

Mr. Speaker, this bill renames the educational institution known as the North/South Center as the Dante B. Fascell North-South Center. Chairman Fascell was responsible for establishing that center in 1991 to help us promote better relations between our Nation and the nations of Latin America, the Caribbean and Canada through cooperative study, training and research.

During his tenure on the Committee on Foreign Affairs, Dante Fascell was instrumental in enacting an astonishing array of bills that significantly advanced Americans' interest abroad, and those included the creation of the National Endowment for Democracy, Radio Marti, and the Inter-American Foundation. Congressman Fascell also authored and advanced numerous bills to improve international narcotics control and aviation safety, as well as securing passage of the Freedom Support and SEED Acts, the Fascell Fellowships and the biennial State Department authorization bills. Dante Fascell also was a driving force behind establishing the Committee on Security and Cooperation in Europe.

Today we recognize the significant contributions that former Chairman Fascell made to U.S.-Latin American relations and indeed to so many other aspects of our Nation's foreign policy. He was a dedicated legislator and statesman. It is a privilege to sponsor this measure with our committee's ranking Democratic member, the distinguished gentleman from Connecticut (Mr. GEJDENSON). This is only a modest gesture to recognize a truly great American.

Mr. Speaker, tomorrow we will be honoring the memory of Congressman Fascell in a ceremony in our Foreign Affairs Committee room, and I urge our colleagues to join us on that occasion.

I ask support for this measure, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of the bill. I had the privilege of serving under Chairman Fascell for many years, and I think what we are doing here today is obviously an appropriate response. But we could really go to almost any corner of the globe and look at the tremendous work that Dante did. There was no place where humans were in suffering, where there was a crisis, that Dante Fascell did not take a leadership role in trying to resolve that crisis, to relieve that pain.

But it is appropriate, looking at the place where he had his greatest focus, settling in Florida early in this century, he recognized before most of the rest of the country did how critical this North/South relationship would be, economically and politically, and for his years in the Congress he led the fight to make sure that we engaged our Latin American neighbors on an equal footing, trying to help nurture their democratic institutions and their economies.

What we do here today is a small part of the honor that Dante deserves. We all miss him, and we all admire and respect his great accomplishments.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the distinguished ranking member, the gentleman from Connecticut (Mr. GEJDENSON), for yielding this time to me, and I thank the distinguished gentleman from New York (Mr. GILMAN) for bringing this measure to the floor.

Mr. Speaker, I was a sophomore at Coral Gables High School in the fall of 1954, and there was a gentleman running for Congress. I was 15 years of age, and the gentleman's name was Dante Fascell. I did not know him, but that was the first congressional race I ever focused on because we had a Problems of Democracy class, and we studied the congressional election.

Mr. Speaker, Dante Fascell was elected to the Congress that year, and 27 years later, in 1981, I was elected to the Congress. Dante Fascell had already served from 1955 to 1981, and was one of the senior Members. I had met Dante Fascell on numerous times before my election to Congress, and we had become good friends.

In 1976 Speaker O'Neill appointed Dante Fascell chairman of the Commission on Security and Cooperation in Europe. That is now known as the Organization on Security and Cooperation in Europe, and it is a vital factor in European peacekeeping, in a focus on human rights and conflict resolution. It is playing a major role in Bosnia and a major role in Kosovo. The OSC, a very vibrant organization, was formed in August of 1975 when 35 signatory States, including the United States and Canada, joined with 33 European states in forming the Organization on Security, then called the Conference on Security and Cooperation in Europe.

Dante Fascell was a vital founding member of that organization. As the Chairman of the Commission on Security and Cooperation in Europe from 1976 to 1985, he forged U.S. policy in many ways regarding security and cooperation in Europe.

Upon his becoming Chairman of the Foreign Affairs Committee in 1985, I was privileged to be recommended by him and then appointed by Speaker O'Neill to succeed him as chairman of the Commission on Security and Cooperation in Europe.

□ 1445

Mr. Speaker, those who did not know Dante Fascell missed knowing a very decent, able, giving, caring, effective American and Member of this body.

Dante Fascell was the epitome of a bipartisan Member of the House. He worked without respect to party. He worked on behalf of the best interests of the United States of America and the best interests of the world community. He was, in many ways, an international citizen.

I had the opportunity to attend the North American Assembly on numerous occasions with Dante Fascell and others, and Dante Fascell was appropriately perceived as a leader in that organization, which is an adjunct of NATO.

Dante Fascell has been missed in this body since he left. When he left the Congress, he returned to practice law in his beloved Florida. I had the opportunity of talking to him on numerous occasions, and I lament his loss.

Dante Fascell was a good and decent man, who raised his hand and swore to defend the Constitution of the United States. No Member has done his duty better than Dante Fascell. We do ourselves proud by passing this legislation and honoring Dante Fascell.

Dante Fascell honored this institution and the people's House through his service. He served the people of Florida for over 30 years with such distinction that Floridians felt compelled every two years to return him to this body. I am honored to join with the gentleman from Connecticut (Mr. GEJDENSON), my good friend, the gentleman from New York (Mr. GILMAN), and all the Members of this body, to say to Dante Fascell, thank you and farewell. You were honored while you were here, and you are honored still.

Mr. GEJDENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in very strong support of this bill, which would designate the North/South Center at the University of Miami as the Dante B. Fascell North/South Center.

My rhetorical question is, how else could it be, what other name could be designated, to cover this center? No man in this country has done more for north-south relations than the late Dante Fascell.

But what I liked most about Dante Fascell was that he was a gentleman. He was a populist. The people knew him well. I serve part of his district today, and never a day passes that someone does not say something good to me about what Dante Fascell has done.

Mr. Speaker, that will be Dante's legacy, what he has done for the people, what he has done to make relationships between the north and the south become real.

I want to thank the gentleman from New York (Chairman GILMAN) for his initiative in this matter, for it is a fitting honor for a truly great, and, most of all, humble man.

For 38 years, Dante Fascell served on the House Committee on Foreign Affairs, eight years as a full committee chairman. He devoted his whole life time to the service of this Nation and the nations of the world, a man of great insight, a man of good judgment and knowledge.

He advised presidents, but he never lost common touch, Mr. Speaker. He was sought by foreign leaders and foreign dignitaries, but he never got so full he didn't think about the people back home who had domestic problems as well.

Throughout his decades of service in this body, Mr. Fascell became more and more convinced of the need for an American foreign policy based on cultural, educational, trade and person-to-person exchanges between nations, in addition to normal government-to-government contacts.

His vision became reality at his alma mater, the University of Miami. If it were not for Dante Fascell, you would not see the strong cemented relationships now that exist between this country and Latin America and other countries, particular in the Caribbean as well.

He is recognized as the father of the North/South Center, which today Congress has seen fit, thank God, to authorize as one of the Nation's leading institutions, focusing on improving relations between the countries of North and South America and the Caribbean.

Despite his great achievements, Dante Fascell never forgot his roots, he never forgot from whence he came. The son of Italian immigrants, he met with presidents and kings and was a recipient of the President's Medal of Honor, the highest civilian honor that can be bestowed by our country. He was, by any measure, a truly great man, but he was, nonetheless, always friendly, and I keep underlining that, open and approachable to his constituents in South Florida.

Who among you who knew him can forget the warm feeling inside just knowing that Dante was on the phone waiting to talk to you? He was welcome wherever he went.

There is not anyone in South Florida that can ever forget attending the Dante Fascell picnic on Labor Day, where they got to shake hands with the proud and the mighty as well as the low and those were aspiring to be high. He committed his efforts to solving little problems, as well as big ones. His common sense and common touch endeared him to literally generations of voters. It is not an exaggeration to say that by the end of his service in Congress, he was, as he is today, and I believe will remain forever, truly a legend in Florida and in this country.

Mr. Fascell retired from Congress the year that I was elected, in 1992, so I never had the honor of serving with Dante. But the minute I hit Capitol Hill, Dante saw fit to advise me. He never said, ''CAROL, you can't do this.'' He said, ''You strive for what you want and work hard for it, and you can get it done.''

I knew Dante for many years, and he did not hide behind his desk. He came out and advised me as to what I should do. In typical Fascell fashion, he opened up his office. Right now I am sitting in my office in one of Dante Fascell's chairs. I wish, by God, I could ever reach any heights that Dante reached. But the mere fact I inherited his furniture gave me a certain amount

of inspiration and motivation to do well here. As a new Member of Congress, he opened up his doors to me.

When he retired, Dante said something that bears repeating. He said, ''We should all be proud of whatever part we have done to promote the American dream. For all its faults, our method of self-government allows for more tolerance of other people and their views; more compromise when our opinions differ; and more willingness to listen to other people's problems than any government I have dealt with during my long association with nations.''

He was proud of this nation. He was proud of this institution. He was proud of South Florida. He was proud of South Florida. I wish more of us in this body could emulate Dante Fascell, to share in his national pride, and spend more time in making this institution one in which there is love and caring for everyone, instead of tearing it down.

Throughout his life, Dante Fascell set a very high standard for public service, which all of us should follow. I am completely confident, Mr. Speaker, that those of you here today who served with Dante Fascell will agree with me that he is one of the finest men who will ever serve in this body.

Mr. GEJDENSON. I again commend the chairman for moving this resolution. Dante Fascell was an incredible individual. We are all privileged to have served with him. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 432 and H.R. 68.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Connecticut (Mr. GEJDENSON) for his supportive remarks. I thank the gentlewoman from Florida (Mrs. MEEK) for her support and her eloquent words.

Mr. DIAZ-BALART. Mr. Speaker, I rise today in support of this legislation to rename the University of Miami's North/South Center in honor of my good friend Dante B. Fascell. Dante Fascell worked tirelessly to help create and fund the North/South Center during his tenure as the Chairman of the House Foreign Affairs Committee. Throughout his service in Congress, Dante Fascell was a constant advocate for the cause of democracy and open dialogue among the nations of the Western Hemisphere. Our nation owes him a debt of gratitude for his years of service.

Dante Fascell's support for the creation of the North/South Center stemmed from his strong belief that the free exchange of ideas would strengthen our nation's security, competitivenes and economic vitality. The North/South Center provides a forum for research and policy analysis that is unparalleled by any other institution in the country and promotes better understanding and relations between the United States, Canada, and the nations of Latin America and the Caribbean.

In 1990, with the pasage of the North/South Center Act, Congress authorized the establishment of the Center as a place for ''cultural and technical interchange between North and South.'' Dante Fascell's dream was to focus the country on the pursuit of policies which strengthen our national economic policy, trade practices, and relations with the countries of the Western Hemisphere.

The North/South Center plays many roles. It is a think-tank, a foundation, a public resource center and a repository of information. The work of the Center informs our national debate regarding topics of major significance, such as trade, economic growth, immigration, drug control policies, and the spread of democracy.

There is no greater way that we can thank Dante Fascell for his vital contributions to the North/South Center than naming it in his honor. Dante Fascell served his constituents in Florida and the nation as a whole for 36 years. He is, indeed, worthy of this tribute and I think that this is an excellent way to honor his memory.

Mr. DEUTSCH. Mr. Speaker, I rise in strong support for H.R. 432—a bill to designate the North-South Center as the Dante B. Fascell North-South Center. This legislation is a fitting tribute to a man who devoted his life toward promoting cultural understanding throughout the world.

South Florida was deeply saddened to learn of Dante's passing on November 28, 1998. Dante, the son of Italian immigrants and a World War II veteran, became a legend in South Florida during his 38-year career in Congress. He is remembered as a powerful, yet kind political figure who left an enduring mark on the Everglades, the Florida Keys, and world affairs.

An advisor to eight Presidents, Dante remained a humble man who demonstrated the greatest qualities of any public servant. Reflecting on his service upon his retirement from Congress, Dante said, ''We all should be proud of whatever part we have done to promote the American dream.''

Dante held a strong belief in American democracy saying, ''For all its faults, our method of self-government allows for more tolerance of other people and their views, more compromise when our opinions differ and more willingness to listen to other people's problems than any government I have dealt with during my long association with other nations.'' Last October, President Clinton presented Dante with the Presidential Medal of Freedom—our nation's highest civilian honor—calling him a ''man of reason and conscience'' who was ''courageous in war and public service.''

Mr. Speaker, it is entirely appropriate that Congress dedicate Miami's North-South Center to Dante Fascell. This designation reflects Dante's impact on the Caribbean and Central America, both of which he felt were direct extensions of South Florida. Among his most famous statements, Dante often said, ''When Central America sneezes, Miami catches cold.'' The North-South Center is a living extension of Dante's long-held belief that cultural and economic understanding between the Americas is essential to our mutual prosperity. I rise in full support of H.R. 432 and urge my colleagues' unanimous support.

Mr. SHAW. Mr. Speaker, I rise today in support of H.R. 432, a bill to name the North-South Center after our former colleague, the late Dante Fascell.

It is fitting that Congress is naming the North-South Center, which Dante helped found, in his honor. During his long and distinguished career in the House, Dante used his position as chairman of the Foreign Affairs Committee to promote understanding and cooperation between nations of the Western Hemisphere. To advance this view, in 1984 Dante helped establish the North-South Center, located in Miami. This educational institution helps promote better relations between the United States and the other nations of the Western Hemisphere through cooperative study, training and research. Today, the North-South Center plays an essential role in the conduct of American diplomacy.

Mr. Speaker, one of Chairman Fascell's top priorities in Congress was to promote closer relations among our allies in this hemisphere. Dante was also a tireless fighter against tyranny and oppression in Latin America and the Caribbean. Since the North-South Center is essentially carrying on Dante's work, it is fitting that this organization be named in his honor. I hope the naming of the North-South Center will remind future generations, and especially South Floridians, the gratitude we owe Dante Fascell for his tireless efforts.

I urge my colleagues to support H.R. 432.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and pass the bill, H.R. 432.

The question was taken.

Mr. GILMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMITTING USE OF CAPITOL ROTUNDA FOR CEREMONY COMMEMORATING DAYS OF REMEMBRANCE FOR VICTIMS OF HOLOCAUST

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 19) permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. THOMAS)?

Mr. HOYER. Mr. Speaker, reserving the right to object, I yield to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, this concurrent resolution is one that is presented annually, and, up until today, at least for a decade, and I believe this resolution has been requested for two decades, at least for a decade, it was sponsored by the gentleman from Illinois, Mr. Yates.

Sid Yates is no longer with us, so it is my privilege to offer this resolution with the ranking Member of the Committee on House Administration, the gentleman from Maryland (Mr. HOYER), the gentleman from Connecticut (Mr. GEJDENSON), the gentleman from Ohio, (Chairman REGULA), the gentleman from New York (Chairman GILMAN), the gentleman from Ohio (Mr. LATOURETTE), and the gentleman from California (Mr. LANTOS).

Mr. Speaker, this year's celebration is one that strikes a theme directly remembering the period just prior to the United States entering World War II and the tumultuous nature of international relations at the time. The U.S. Holocaust Memorial Council is entrusted with sponsoring appropriate observances of the days of remembrance, and the U.S. Capitol rotunda ceremony is part of that effort.

The theme of the 1999 commemoration is the 60th anniversary of the voyage of the S.S. *St. Louis*. In 1939, if you will all recall, Hitler's invasion of Poland on September 1, 1939, is usually marked as the actual beginning of the Second World War, the *St. Louis* sailed. It had as its passengers 936 Jewish refugees. It left Europe and moved toward the United States, where it was refused entry, and it was refused entry in Cuba. The refugees then returned to Western Europe.

Then, of course, we know that following the invasion of Poland, Hitler and the German forces moved south, invading the Netherlands, Belgium and then France. These individuals, who were simply looking for freedom, found themselves refugees under the National Socialist rule and subject to the Holocaust.

The Survivors Registry is currently attempting to document the fate of the 936 passengers of the *St. Louis*. Until we are able to document the actual fate of these individuals, it is entirely appropriate on the 60th anniversary of these people, simply looking for freedom and being rejected by the country that calls itself the Beacon of Freedom, to remember the Holocaust in the way that I think strengthens this Nation's commitment to democracy and human rights.

Mr. HOYER. Mr. Speaker, continuing my reservation, I am pleased to yield to my good friend, the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations.

□ 1500

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding. I want to commend the gentleman from California (Mr. THOMAS) for bringing this measure to the floor at this time.

The commemoration of the Holocaust is so important, and the fact that we do it here in the Capitol building, in the Rotunda, is an extremely important reminder to the entire world of the importance that we place on the Holocaust.

Mr. Speaker, I am pleased to be able to support the House Concurrent Resolution, H. Con. Res. 19, authorizing the use of the Capitol Rotunda for a ceremony commemorating the victims of the Holocaust. That important ceremony is scheduled to take place in the Capitol on April 13, 1999, from 8 a.m. to 3 p.m.

The passage of this resolution and the subsequent Ceremony of the Days of Remembrance will provide the centerpiece of similar Holocaust remembrance ceremonies that take place throughout our Nation. This day of remembrance will be a day of speeches, reading and musical presentation, and will provide the American people and those throughout the world an important day to study and to remember those who suffered and those who survived.

Mr. Speaker, it is important that we keep the memory of the Holocaust alive as part of our living history. As Americans, we can be proud of our efforts to liberate those who suffered and survived in the oppressive Nazi concentration camps. Let us never forget the harm that prejudice, oppression and hatred can cause.

Mr. HOYER. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of the resolution. Last April I was honored to participate in the National Civic Commemoration of the Days of Remembrance in the Rotunda. If my colleagues have not experienced this moving ceremony, I strongly encourage them to attend.

During last year's commemoration, I stood with Holocaust survivors in a Capitol Rotunda that was filled with the saddest of memories from inspirational lives, lives like that of my constituent, Mr. Alec Mutz. I was privileged to light a memorial candle with Mr. Mutz, who survived three ghettos and five concentration camps.

During this commemoration, the prayers of remembrance and the voices of children reading diaries from those dark days hung in the air of the Rotunda. And as the United States Army carried the flags of the regiments, the spirit of the Allied forces that had liberated those concentration camps, my heart was so heavy and my spirit so haunted I could hardly breath. It is an experience that will never leave me.

I urge my colleagues to overwhelmingly support this resolution. It is a part of the vow that we have taken to never forget the Holocaust, lest history repeat itself. Mr. Speaker, this message must resonate throughout the ages. Our children and our children's children must learn of the Holocaust to ensure that it will never happen again.

In that vein, I would also like to commend to my colleagues the Justice for Holocaust Survivors Act that I reintroduced earlier this year. H.R. 271 would allow an estimated 60,000 Holocaust survivors to sue the German Government in United States Federal courts for equitable compensation. I know that many House Members have been frustrated in their efforts to help Holocaust survivors persuade the German Government to provide some measure of reparation. But, unfortunately, too often they have met our efforts with bureaucratic semantics and stonewalling.

H.R. 271 would give Holocaust survivors a last chance for justice. Since I introduced the bill in the last Congress, I have heard from hundreds of survivors, all denied a chance to have Germany simply acknowledge the truth about the savage and inhuman treatment to which they were subjected. Their loss, pain and suffering was and is real. They deserve compensation for the horrors that they have suffered: physical torture, mental abuse, loss of family, destruction of culture.

Mr. Speaker, as we act to remember the Holocaust with the Commemoration of the Days of Remembrance, let us also act to give these courageous survivors the last beacon of hope for just resolution of the wrongs that they have suffered. I urge my colleagues to support this resolution and to cosponsor H.R. 271, the Justice for Holocaust Survivors Act.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for her comments, and I thank her also for her leadership in so many different efforts directed at ensuring that human rights are observed, not just in the United States but around the world.

Mr. Speaker, continuing under my reservation, I am pleased to join with the gentleman from California (Mr. THOMAS) in support of this concurrent resolution, which provides for the annual remembrance for victims of the Holocaust in the Rotunda of the Capitol, on Tuesday, April 13, 1999.

I want to join with the gentleman from California (Mr. THOMAS) in recognizing that this resolution was for

many years introduced by one of our finest Members, Sidney Yates from Illinois. Sidney Yates retired last year, and so the chairman of our committee, the gentleman from California (Mr. THOMAS) and I, along with some of our colleagues, are introducing it. But he stood as a giant on behalf of those who would not let this generation or generations yet to come forget the Holocaust.

There is no occasion more important for the international community and for humanity than to remember the tragedy that occurred in the 1930s and 1940s, the massive loss of life and the tragic reality of man's inhumanity to man. It is appropriate, Mr. Speaker, that we use the Rotunda, the scene of so many historic events, to draw attention again to one of the great tragedies in human history, and to remind ourselves that such events must never, never, never again be permitted to occur.

We perhaps delude ourselves that in this great country this could not happen. I like to believe and do believe that is true, but we know just a short time ago in Texas we had an African-American dragged from the back of a truck and brutally murdered. That was because he was an African-American. We know too that in the State of Wyoming we had a young man, I think he was 19 years of age, perhaps a little older, lose his life because of his sexual orientation. We see today a slaughter in Kosovo, men, women and children shot at close range in the face, unarmed.

What Days of Remembrance seeks to do is to make sure that we remember man's inhumanity to man and be vigilant to its recurrence. In this country we are fortunate to have a system that intervenes and acts and imposes the law. But, unfortunately, there are too many nations where might makes right, as it did in Nazi Germany.

The ceremony on April 13 will be part of the annual Days of Remembrance sponsored by the United States Holocaust Memorial Council, and is intended to encourage citizens to reflect on the Holocaust, to remember its victims, and to strengthen our sense of democracy and human rights.

We talked just a little earlier in this session about Dante Fascell and his chairmanship on the Commission on Security and Cooperation in Europe. Basket three of that document says specifically that there are certain international principles which apply to every Nation in dealing with its own citizens, and that those standards of the international community must be observed if a Nation is expected to be a full, participating, respected member of the international community.

Other events remembering the Holocaust will be occurring throughout the country. Each year the ceremony has a theme geared to specific events which occurred during the Holocaust. The gentleman from California (Mr. THOMAS) referred to the sailing of the *St. Louis* on May 13, 1939, 60 years ago.

Just as so many refugees came from Europe and other parts of the world, they came to the United States. They came to a nation that has a Statue of Liberty that says, ''Give me your tired, your poor, your huddled masses yearning to be free, the wretched refuse of your teeming shore. Send these, the homeless, tempest tossed to me, I lift my lamp beside the golden door.''

Mr. Speaker, the lamp may have been lifted, but the door was closed. That was a tragedy, not only for the 900 plus souls that sailed on the *St. Louis*, but as well for a Nation that perceived itself as a refuge from tyranny and despotism. They went, as the Chairman said, then to Cuba, and again, the door was closed. Both the United States and Cuba refused the ship entry.

It was, therefore, forced to return to Europe whence it came, where the passengers were dispersed, having no place to go, through several countries. And the tragedy is that a portion of those 936 souls were lost in the Holocaust, murdered because they were Jews, not because of any action they had taken, not because of any crime they had committed, but simply because of their religion and their national origin. An effort is being made to document the fate of these passengers through the use of worldwide archival materials, information provided by Jewish communities and other sources.

Mr. Speaker, Members of the Congress realize the importance of remembering the victims of the Holocaust and encouraging continuing public reflections on the evils which can occur and tragically are occurring in our world today.

Mr. Speaker, there are 435 of us in this House elected by our neighbors to represent them. Eleven million people by some counts, and far greater by others, including 6 million Jews, lost their lives before the Allies achieved victory and put an end to the Nazi death camps. And while the remembrance commemorates historical events, the issues raised by the Holocaust remain fresh in our memories as we survey the scene in several parts of the world, even today.

Mr. Speaker, I want to thank and congratulate the gentleman from California (Mr. THOMAS) for introducing this on the first day of our session. His leadership on this issue was important, and I know his commitment is as real as any in this body, because this is such an important resolution to pass.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BURR of North Carolina). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 19

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol is authorized to be used from 8 o'clock ante meridian until 3 o'clock post meridian on April 13, 1999, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 19.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 68, by the yeas and nays;

H.R. 432, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

SMALL BUSINESS INVESTMENT COMPANY TECHNICAL CORRECTIONS ACT OF 1999

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 68, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. TALENT) that the House suspend the rules and pass the bill, H.R. 68, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 2, not voting 29, as follows:

[Roll No. 7]

YEAS—402

Abercrombie	Andrews	Baird
Ackerman	Archer	Baker
Aderholt	Armey	Baldacci
Allen	Bachus	Baldwin

Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
DeLauro
DeMint
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Largent
Larson
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Toomey
Traficant
Turner
Udall (NM)
Upton
Velázquez
Vento
Visclosky
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—2

Paul
Sanford

NOT VOTING—29

Barcia
Bateman
Boehner
Brown (CA)
Carson
Cooksey
Delahunt
DeLay
Deutsch
Ehlers
Gutknecht
Jefferson
LaHood
Lantos
Leach
Luther
McDermott
McGovern
Moakley
Pickett
Quinn
Rush
Scott
Sisisky
Tanner
Tierney
Towns
Udall (CO)
Young (FL)

□ 1534

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. QUINN. Mr. Speaker, on rollcall No. 7, I was inadvertently detained. Had I been present, I would have voted "yea."

Mr. MCDERMOTT. Mr. Speaker, during rollcall vote No. 7, H.R. 68, I was unavoidably detained. Had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURR of North Carolina). Pursuant to the provisions of clause 9 of rule XX, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

DANTE B. FASCELL NORTH-SOUTH CENTER

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 432.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and pass the bill, H.R. 432, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows:

[Roll No. 8]

YEAS—409

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
DeLauro
DeMint
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Largent
Larson
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)

Manzullo	Peterson (PA)	Smith (TX)
Markey	Petri	Smith (WA)
Martinez	Phelps	Snyder
Mascara	Pickering	Souder
Matsui	Pitts	Spence
McCarthy (MO)	Pombo	Spratt
McCarthy (NY)	Pomeroy	Stabenow
McCollum	Porter	Stark
McCrery	Portman	Stearns
McDermott	Price (NC)	Stenholm
McHugh	Pryce (OH)	Strickland
McInnis	Quinn	Stump
McIntosh	Radanovich	Stupak
McIntyre	Rahall	Sununu
McKeon	Ramstad	Sweeney
McKinney	Rangel	Talent
McNulty	Regula	Tancredo
Meehan	Reyes	Tauscher
Meek (FL)	Reynolds	Tauzin
Meeks (NY)	Riley	Taylor (MS)
Menendez	Rivers	Taylor (NC)
Metcalf	Rodriguez	Terry
Mica	Roemer	Thomas
Millender-McDonald	Rogan	Thompson (CA)
	Rogers	Thompson (MS)
Miller (FL)	Rohrabacher	Thornberry
Miller, Gary	Ros-Lehtinen	Thune
Miller, George	Rothman	Thurman
Minge	Roukema	Tiahrt
Mink	Roybal-Allard	Toomey
Mollohan	Royce	Traficant
Moore	Ryan (WI)	Turner
Moran (KS)	Ryun (KS)	Udall (CO)
Moran (VA)	Sabo	Udall (NM)
Morella	Salmon	Upton
Murtha	Sanchez	Velázquez
Myrick	Sanders	Vento
Nadler	Sandlin	Visclosky
Napolitano	Sanford	Walden
Neal	Sawyer	Walsh
Nethercutt	Saxton	Wamp
Ney	Scarborough	Waters
Northup	Schaffer	Watkins
Norwood	Schakowsky	Watt (NC)
Nussle	Sensenbrenner	Watts (OK)
Oberstar	Serrano	Waxman
Obey	Sessions	Weiner
Olver	Shadegg	Weldon (FL)
Ortiz	Shaw	Weldon (PA)
Ose	Shays	Weller
Owens	Sherman	Wexler
Oxley	Sherwood	Weygand
Packard	Shimkus	Whitfield
Pallone	Shows	Wicker
Pascrell	Shuster	Wilson
Pastor	Simpson	Wise
Paul	Skeen	Wolf
Payne	Skelton	Woolsey
Pease	Slaughter	Wu
Pelosi	Smith (MI)	Wynn
Peterson (MN)	Smith (NJ)	Young (AK)

NOT VOTING—24

Bateman	Gutknecht	Pickett
Brown (CA)	Jefferson	Rush
Carson	LaHood	Scott
Cooksey	Lantos	Sisisky
Delahunt	Leach	Tanner
DeLay	Luther	Tierney
Deutsch	McGovern	Towns
Ehlers	Moakley	Young (FL)

□ 1550

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTKNECHT. Mr. Speaker, due to flight cancellations earlier today, I was unable to be present to vote on Tuesday, February 2, 1999, for the following votes:

Rollcall No. 7—H.R. 68—I would have voted "yea."

Rollcall No. 8—H.R. 432—I would have voted "yea."

PERSONAL EXPLANATION

Mr. DEUTSCH. Mr. Speaker, I was unavoidably absent from the chamber on February 2, 1999, during rollcall vote Nos. 7 and 8. Had I been present, I would have voted "aye" on rollcall vote No. 7, and "aye" on rollcall vote No. 8.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. WATTS of Oklahoma. Mr. Speaker, I offer a resolution (H. Res. 30) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 30

Committee on Government Reform: Mrs. CHENOWETH.

Committee on the Judiciary: Mr. BACHUS.

Committee on Science: Mr. SANFORD; and Mr. METCALF.

Committee on Small Business: Mr. PEASE; Mr. THUNE; and Mrs. BONO.

Committee on Transportation and Infrastructure: Mr. BEREUTER; Mr. KUYKENDALL; and Mr. SIMPSON.

Committee on Veterans' Affairs: Mr. HANSEN; Mr. MCKEON; and Mr. GIBBONS; all to rank in the named order following Mr. LAHOOD.

The SPEAKER pro tempore (Mr. BURR of North Carolina). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

TRIBUTE TO CHARLES ''BILLY'' MALRY

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, those of us who have the great privilege of serving in this body because of our election from our constituencies come to this floor every day and walk the halls of this Capitol which we revere. Every day we see the faces of and know the names of some who serve this institution so well. They are individuals who care as deeply for their country as those of us who are elected to serve in this body, and their quiet, unassuming competence adds to the quality of service that we give to the American public.

Mr. Speaker, I rise to note sadly, as others have done, the passing of a friend, the passing of a servant of this House, a servant of the people, as we are all servants of the people. His name was Charles ''Bill'' Malry. Some of my colleagues may not know the name, but they saw him in the Speaker's Lobby. They would see him in the cloakroom. He facilitated the operations of this House.

He was born May 6, 1936, in Greer, South Carolina, and was raised in Washington. He served in the Army until 1962. After his return from the Army he worked at the O Street Market here in Washington, D.C.

In 1966, 32 years ago, he started working here in the Capitol, where he worked until his death the very night the President delivered his State of the Union message. Billy was in the cloakroom, on duty, assisting Members, facilitating our work. God took him home.

Billy enjoyed entertaining people as well as music and photography. He was a real person, a warm person, a caring person. He cared about each one of us. Those of us who had the privilege of being his friend will never forget him.

He was the father of five children: Renee, Charles, Charles Jr., Michael and Tonya. His mother, Frances Malry Allen, nine grandchildren, as well as four brothers and seven sisters are left behind.

Mr. Speaker, I had the privilege of going to the church here in Washington, and I talked to his mother, and I congratulated her for raising a son who had done so much for his country and so much for each of us. Billy's smile and warmth and service will be missed. Bill Malry served his country well.

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following communication from the President of the United States:

THE WHITE HOUSE,
Washington, February 1, 1999.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to 31 U.S.C. 1105, attached is the Budget of the United States Government for Fiscal Year 2000.

Sincerely,

WILLIAM J. CLINTON.

BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2000—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 106–3)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without

objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

The 2000 Budget, which I am submitting to you with this message, promises the third balanced budget in my Administration. With this budget, our fiscal house is in order, our spirit strong, and our resources prepare us to meet the challenges of the next century.

This budget marks a new era of opportunity. When I took office six years ago, I was determined to reverse decades of fiscal decline—a time when deficits grew without restraint, the economy suffered, and our national purpose seemed to be undermined. For too many years, the deficit loomed over us, a powerful reminder of the Government's inability to the people's business.

Today, Americans deserve to be proud and confident in their ability to meet the next set of challenges. In the past six years, we have risen to our responsibilities and, as a result, have built an economy of unprecedented prosperity. We have done this the right way—by balancing fiscal discipline and investing in our Nation.

This budget continues on the same path. It invests in education and training so Americans can make the most of this economy's opportunities. It invests in health and the environment to improve our quality of life. It invests in our security at home and abroad, strengthens law enforcement and provides our Armed Forces with the resources they need to safeguard our national interests in the next century.

This year's budget surplus is one in many decades of surpluses to come—if we maintain our resolve and stay on the path that brought us this success in the first place. The budget forecasts that the economy will remain strong, producing surpluses until well into the next century.

The 21st Century promises to be a time of promise for the American people. Our challenge as we move forward is to maintain our strategy of balancing fiscal discipline with the need to make wise decisions about our investment priorities. This strategy has resulted in unprecedented prosperity; it is now providing us with resources of a size and scope that just a few years ago simply didn't seem possible. Now that these resources are in our reach, it is both our challenge and responsibility to make sure we use them wisely.

First and foremost, in the last year of this century, the task awaiting us is to save Social Security. The conditions are right. We have reserved the surplus, our economy is prosperous, and last year's national dialogue has advanced the goal of forging consensus. Acting now makes the work ahead easier, with changes that will be far simpler than if we wait until the problem is closer at hand.

In my State of the Union address, I proposed a framework for saving Social Security that will use 62 percent of the surplus for the next 15 years to strengthen the Trust Fund until the middle of the next century. Part of the surplus dedicated to Social Security would be invested in private securities, further strengthening the Trust Fund by drawing on the long-term strength of the stock market, and reducing the debt to ensure strong fiscal health. This proposal will keep Social Security safe and strong until 2055. In order to reach my goal of protecting and preserving the Trust Fund until 2075, I urge the Congress to join me on a bipartisan basis to make choices that, while difficult, can be achieved, and include doing more to reduce poverty among single elderly women.

I am committed to upholding the pledge I made last year—that we must not drain the surplus until we save Social Security. It is time to fix Social Security now. And once we have done so, we should turn our efforts to other pressing national priorities. We must fulfill our obligation to save and improve Medicare—my framework would reserve 15 percent of the projected surplus for Medicare, ensuring that the Medicare Trust Fund is secure for 20 years. It would establish Universal Savings Accounts, using just over one-tenth of the surplus to encourage all Americans to save and invest so they will have additional income in retirement. I propose that we reserve the final portion of the projected surplus, 11 percent, to provide resources for other pressing national needs that will arise in the future, including the need to maintain the military readiness of the Nation's Armed Forces, education, and other critical domestic priorities.

CHARTING A COURSE FOR THE NEW ERA OF SURPLUS

Six years ago, when my Administration took office, we were determined to create the conditions for the Nation to enter the 21st Century from a position of strength. We were committed to turning the economy around, to reining in a budget that was out of control, and to restoring to the country confidence and purpose.

Today, we have achieved these goals. The budget is in balance for the first time in a generation and surpluses are expected as far as the eye can see. The Nation's economy continues to grow; this is the longest peacetime expansion in our history. There are more than 17 million new jobs; unemployment is at its lowest peacetime level in 41 years; and today, more Americans own their own homes than at any time in our history.

Americans today are safer, more prosperous, and have more opportunity. Crime is down, poverty is falling, and the number of people on welfare is the lowest it has been in 25 years. By almost every measure, our economy is vibrant and our Nation is strong.

Throughout the past six years, my Administration has been committed to creating opportunity for all Americans, demanding responsibility from all Americans and to strengthening the American community. We have made enormous strides, with the success of our economy creating new opportunity and with our repair of the social fabric that had frayed so badly in recent decades reinvigorating our sense of community. Most of all, the prosperity and opportunity of our time offers us a great responsibility—to take action to ensure that Social Security is there for the elderly and the disabled, while ensuring that it not place a burden on our children.

We have met the challenge of deficit reduction; there is now every reason for us to rise to the next challenge. For sixty years, Social Security has been a bedrock of security in retirement. It has saved many millions of Americans from an old age of poverty and dependency. It has offered help to those who become disabled or suffer the death of a family breadwinner. For these Americans—in fact, for all Americans—Social Security is a reflection of our deepest values of community and the obligations we owe to each other.

It is time this year to work together to strengthen Social Security so that we may uphold these obligations for years to come. We have the rare opportunity to act to meet these challenges—or in the words of the old saying, to fix the roof while the sun is shining. And at least as important, we can engage this crucial issue from a position of strength—with our economy prosperous and our resources available to do the job of fixing Social Security. I urge Americans to join together to make that happen this year.

BUILDING ON ECONOMIC PROSPERITY

At the start of 1993, when my Administration took office, the Nation's economy had barely grown during the previous four years, creating few jobs. Interest rates were high due to the Government's massive borrowing to finance the deficit, which had reached a record $290 billion and was headed higher.

Determined to set America on the right path, we launched an economic strategy built upon three elements: promoting fiscal responsibility; investing in policies that strengthen the American people, and engaging in the international economy. Only by pursuing all three elements could we restore the economy and build for the future.

My 1993 budget plan, the centerpiece of our economic strategy, was a balanced plan that cut hundreds of billions of dollars of Federal spending while raising income taxes only on the

very wealthiest of Americans. By cutting unnecessary and lower-priority spending, we found the resources to cut taxes for 15 million working families and to pay for strategic investments in areas including education and training, the environment, and other priorities meant to improve the standard of living and quality of life for the American people.

Six years later, we have balanced the budget; and if we keep our resolve, the budget will be balanced for many years to come. We have invested in the education and skills of our people, giving them the tools they need to raise their children and get good jobs in an increasingly competitive economy. We have expanded trade, generating record exports that create high-wage jobs for millions of Americans.

The economy has been on an upward trend, almost from the start of my Administration's new economic policies. Shortly after the release of my 1993 budget plan, interest rates fell, and they fell even more as I worked successfully with Congress to put the plan into law. These lower interest rates helped to spur the steady economic growth and strong business investment that we have enjoyed for the last six years. Our policies have helped create over 17 million jobs, while interest rates have remained low and inflation has stayed under control.

As we move ahead, I am determined to ensure that we continue to strike the right balance between fiscal discipline and strategic investments. We must not forget the discipline that brought us this new era of surplus—it is as important today as it was during our drive to end the days of deficits. Yet, we also must make sure that we balance our discipline with the need to provide resources for the strategic investments of the future.

IMPROVING PERFORMANCE THROUGH BETTER MANAGEMENT

Vice President Gore's National Partnership for Reinventing Government, with which we are truly creating a Government that ''works better and costs less,'' played a significant role in helping restore accountability to Government, and fiscal responsibility to its operations. In streamlining Government, we have done more than just reduce or eliminate hundreds of Federal programs and projects. We have cut the civilian Federal work force by 365,000, giving us the smallest work force in 36 years. In fact, as a share of our total civilian employment, we have the smallest work force since 1933.

But we have set out to do more than just cut Government. We set out to make Government work, to create a Government that is more efficient and effective, and to create a Government focused on its customers, the American people.

We have made real progress, but we still have much work to do. We have reinvented parts of departments and agencies, but we are forcing ahead with new efforts to improve the quality of the service that the Government offers its customers. My Administration has identified 24 Priority Management Objectives, and we will tackle some of the Government's biggest management challenges—meeting the year 2000 computer challenge; modernizing student aid delivery; and completing the restructuring of the Internal Revenue Service.

I am determined that we will solve the very real management challenges before us.

PREPARING FOR THE 21ST CENTURY

Education and Training: Education, in our competitive global economy, has become the dividing line between those who are able to move ahead and those who lag behind. For this reason, I have devoted a great deal of effort to ensure that we have a world-class system of education and training in place for Americans of all ages. Over the last six years, we have worked hard to ensure that every boy and girl is prepared to learn, that our schools focus on high standards and achievement, that anyone who wants to go to college can get the financial help to attend, and that those who need another chance at education and training or a chance to improve or learn new skills can do so.

My budget significantly increases funds to help children, especially in the poorest communities, reach challenging academic standards; and makes efforts to strengthen accountability. It proposes investments to end social promotion, where too many public school students move from grade to grade without having mastered the basics, by expanding after school learning hours to give students the tools they need to earn advancement. The budget proposes improving school accountability by funding monetary awards to the highest performing schools that serve low-income students, providing resources to States to help them identify and change the least successful schools. It invests in programs to help raise the educational achievement of Hispanic students. The budget invests in reducing class size by recruiting and preparing thousands more teachers and building thousands more new classrooms. It increases Pell Grants and other college scholarships from the record levels already reached. My budget also helps the disabled enter the work force, by increasing flexibility to allow Medicaid and Medicare coverage and by providing tax credits to cover the extra costs associated with working.

Families and Children: During the past six years, we have taken many steps to help working families, and we continue that effort with this budget. We cut taxes for 15 million working families, provided a tax credit to help families raise their children, ensured that 25 million Americans a year can change jobs without losing their health insurance, made it easier for the self-employed and those with pre-existing conditions to get health insurance, provided health care coverage for up to five million uninsured children, raised the minimum wage, and provided guaranteed time off for workers who need to care for a newborn or to address the health needs of a family member.

I am determined to provide the help that families need when it comes to finding affordable child care. I am proposing a major effort to make child care more affordable, accessible, and safe by expanding tax credits for middle-income families and for businesses to increase their child care resources, by assisting parents who want to attend college meet their child care needs, and by increasing funds with which the Child Care and Development Block Grant will help more poor and near-poor children. My budget proposes an Early Learning Fund, which would provide grants to communities for activities that improve early childhood education and the quality of child care for those under age five. And it proposes increasing equity for legal immigrants by restoring their Supplemental Security Income benefits and Food Stamps and by expanding health coverage to legal immigrant children.

Economic Development: Most Americans are enjoying the fruits of our strong economy. But while many urban and rural areas are doing better, too many others have grown disconnected from our values of opportunity, responsibility and community. Working with the State and local governments and with the private sector, I am determined to help bring our distressed areas back to life and to replace despair with hope. I am proposing a New Markets Investment Strategy which will provide tax credit and loan guarantee incentives to stimulate billions in new private investment in distressed rural and urban areas. It will build a network of private investment institutions to funnel credit, equity, and technical assistance into businesses in America's untapped markets, and provide the expertise to targeted small businesses that will allow them to use investment to grow. I am also proposing to create more Empowerment Zones and Enterprise Communities, which provide tax incentives and direct spending to encourage the kind of private investment that creates jobs, and to provide more capital for lending through my Community Development Financial Institutions program. My budget also expands opportunities for home ownership, provides more funds to enforce the Nation's civil rights laws, maintains our government-to-government commitment to Native Americans, and strengthens the partnership we have begun with the District of Columbia.

Health Care: This past year, we continued to improve health care for millions of Americans. Forty-seven States enrolled 2.5 million uninsured children in the new Children's Health Insurance Program. By executive order, I extended the patient protections that were included in the Patient's Bill of Rights, including emergency room access and the right to see a specialist, to 85 million Americans covered by Federal health plans, including Medicare and Medicaid beneficiaries and Federal employees. Medicare beneficiaries gained access of new prevention benefits, managed care choices, and low-income protections. My budget gives new insurance options to hundreds of thousands of Americans aged 55 to 65. I am advocating bipartisan national legislation to reduce tobacco use, especially among young people. And I am proposing a Long-Term Care initiative, including a $1,000 tax credit, to help patients, families, and care givers cope with the burdens of long-term care. The budget enables more Medicare recipients to receive promising cancer treatments by participating more easily in clinical trials. And it improves the fiscal soundness of Medicare and Medicaid through new management proposals, including programs to combat waste, fraud and abuse.

International Affairs: America must maintain its role as the world's leader by providing resources to pursue our goals of prosperity, democracy, and security. The resources in my budget will help us promote peace in troubled areas, provide enhanced security for our officials working abroad, combat weapons of mass destruction, and promote trade.

The United States continues to play a leadership role in a comprehensive peace in the Middle East. The Wye River Memorandum, signed in October 1998, helps establish a path to restore positive momentum to the peace process. My budget supports this goal with resources for an economic and military assistance package to help meet priority needs arising from the Wye Memorandum.

Despite progress in making peace there are real and growing threats to our national security. The terrorist attack against two U.S. embassies in East Africa last year is a stark reminder. My budget proposes increased funding to ensure the continued protection of American embassies, consulates and other facilities, and the valuable employees who work there. Our security and stability throughout the world is also threatened by the proliferation of weapons of mass destruction and their means of delivery. The budget supports significant increases for State Department efforts to address this need.

National Security: The Armed Forces of the United States serve as the backbone of our national security strategy. In this post-Cold War era, the military's responsibilities have changed, but not diminished—and in many ways have become ever more complex. The military must be in a position to guard against the major threats to U.S. security: regional dangers, such as cross-border aggression; the proliferation of the technology of weapons of mass destruction; transnational dangers, such as the spread of illegal drugs and terrorism; and direct attacks on the U.S. homeland from intercontinental ballistic missiles or other weapons of mass destruction.

Last year, the military and civilian leaders of our Armed Forces expressed concern that if we do not act to shore up our Nation's defenses, we would see a future decline in our military readiness—the ability of our forces to engage where and when necessary to protect the national security interests of the United States. Our military readiness is currently razor-sharp, and I intend to take measures to keep it that way. Therefore, I am proposing a long-term, sustained increase in defense spending to enhance the military's ability to respond to crises, build for the future through weapons modernization programs, and take care of military personnel and their families by enhancing the quality of life, thereby increasing retention and recruitment.

Science and Technology: During the last six years, I have sought to strengthen science and technology investments in order to serve many of our broader goals for the Nation in the economy, education, health care, the environment, and national defense. My budget strengthens basic research programs, which are the foundation of the Government's role in expanding scientific knowledge and spurring innovation. Through the 21st Century Research Fund, the budget provides strong support for the Nation's two largest funders of civilian basic research at universities: the National Science Foundation and the National Institutes of Health. My budget provides a substantial increase for the National Aeronautics and Space Administration's Space Science program, including a significant cooperative endeavor with Russia.

My budget also provides resources to launch a bold, new Information Technology Initiative to invest in long-term research in computing and communications. It will accelerate development of extremely fast supercomputers to support civilian research, enabling scientists to develop life-saving drugs, provide earlier tornado warnings, and design more fuel-efficient, safer automobiles.

The Environment: The Nation does not have to choose between a strong economy and a clean environment. The past six years are proof that we can have both. We have set tough new clean air standards for soot and smog that will prevent up to 15,000 premature deaths a year. We have set new food and water safety standards and have accelerated the pace of cleanups of toxic Superfund sites. We expanded our efforts to protect tens of millions of acres of public and private lands, including Yellowstone National Park and Florida's Everglades. Led by the Vice President, the Administration reached an international agreement in Kyoto that calls for cuts in greenhouse gas emissions. In my budget this year, I am proposing a historic interagency Lands Legacy initiative to both preserve the Nation's Great Places, and advance preservation of open spaces in every community. This initiative will give State and local governments the tools for orderly growth while protecting and enhancing green spaces, clean water, wildlife habitat, and outdoor recreation. I also propose a Livability Initiative with a new financing mechanism, Better America Bonds, to create more open spaces in urban and suburban areas, protect water quality, and clean up abandoned industrial sites. My budget continues to increase our investments in energy-efficient technologies and renewable energy to strengthen our economy while reducing greenhouse gases. And I am proposing a new Clean Air Partnership Fund to support State and local efforts to reduce both air pollution and greenhouse gases.

Law: Our anti-crime strategy is working. For more than six years, serious crime has fallen uninterrupted and the murder rate is down by more than 28 percent, its lowest point in three decades. But, because crime remains unacceptably high, we must go further. Building on our successful community policing (COPS) program, which in this, its final year, places 100,000 more police on the street, my budget launches the next step—the 21st Century Policing initiative. This initiative invests in additional police targeted especially to crime ''hot spots,'' in crime fighting technology, and in community based prosecutors and crime prevention. The budget also provides funds to prevent violence against women, and to address the growing law enforcement crisis on Indian lands. To boost our efforts to control illegal immigration, the budget provides the resources to strengthen border enforcement in the South and West, remove illegal aliens, and expand our efforts to verify whether newly hired non-citizens are eligible for jobs. To combat drug use, particularly among young people, my budget expands programs that stress treatment and prevention, law enforcement, international assistance, and interdiction.

ENTERING THE 21ST CENTURY

As we prepare to enter the next century, we must keep sight of the source of our great success. We enjoy an economy of unprecedented prosperity due, in large measure, to our commitment

to fiscal discipline. In the past six years, we have worked together as a Nation, facing the responsibility to correct the mistaken deficit-driven policies of the past. Balancing the budget has allowed our economy to prosper and has freed our children from a future in which mounting deficits threatened to limit options and sap the country's resources.

In the course of the next century, we will face new challenges for which we are now fully prepared. As the result of our fiscal policy, and the resources it has produced, we will enter this next century from a position of strength, confident that we have both the purpose and ability to meet the tasks ahead. If we keep our course, and maintain the important balance between fiscal discipline and investing wisely in priorities, our position of strength promises to last for many generations to come.

The great and immediate challenge before us is to save Social Security. It is time to move forward now.

We have already started the hard work of seeking to build consensus for Social Security's problems. Let us finish the job before the year ends. Let us enter the 21st Century knowing that the American people have met one more great challenge—that we have fulfilled the obligations we owe to each other as Americans.

If we can do this—and surely we can—then we will be able to look ahead with confidence, knowing that our strength, our resources, and our national purpose will help make the year 2000 the first in what promises to be the next American Century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 1, 1999.*

□ 1615

REPORT CONCERNING EMIGRATION LAWS AND POLICIES OF ALBANIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 106–16)

The SPEAKER pro tempore (Mrs. BIGGERT) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed.

To the Congress of the United States:

I am submitting an updated report to the Congress concerning the emigration laws and policies of Albania. The report indicates continued Albanian compliance with U.S. and international standards in the area of emigration. In fact, Albania has imposed no emigration restrictions, including exit visa requirements, on its population since 1991.

On December 5, 1997, I determined and reported to the Congress that Albania is not in violation of paragraphs (1), (2), or (3) of subsection 402(a) of the Trade Act of 1974, or paragraph (1), (2), or (3) of subsection 409(a) that act. That action allowed for the continuation of normal trade relations status for Albania and certain other activities without the requirement of an annual waiver. This semiannual report is submitted as required by law pursuant to the determination of December 5, 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 2, 1999.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PROGRESS OF LIVABLE COMMUNITIES MOVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

Mr. BLUMENAUER. Madam Speaker, we begin the new session on a note of optimism that has been sounded by Republican leaders, by our Democratic leader, the gentleman from Missouri (Mr. GEPHARDT), and by the President of the United States in his recent appearance in this Chamber. This is important, because we have been consumed by the dark cloud hanging over this Capitol.

Over this past year, a few bright spots have indeed emerged. I am especially pleased with the progress and the attention given to the Livable Communities movement.

Recently highlighted by the administration in the President's State of the Union speech, elements were previewed a week earlier by the Vice President, who is a major architect of this work. The Vice President's address last September at the Brooking Institute was one of the best statements I have heard on the importance of Livable Communities and how to encourage them.

While I am pleased with their leadership, I want to caution that this is not just a partisan initiative of the Democratic administration. As an appointee over 25 years ago of Oregon's legendary Republican Governor Tom McCall to his Livable Oregon Committee, I know full well that making our communities livable does not have to be a partisan effort. Indeed, it should not be.

Oregon's achievements in land use, transportation and environmental protection have made it a beacon for the Livable Communities movement. Our efforts were marked by a spirit of bipartisan cooperation. Nationally, we have seen an example of Republican interest when Governor Christy Todd Whitman made ''Livable New Jersey'' the theme of her second and final inaugural address.

The most important strength of the Livable Communities movement is that it transcends even bipartisan politics. Over 200 local and state ballot initiatives faced voters this November from around the country signaling a new era of grassroots pressure to create more livable communities and to have government become a better partner in that effort. I would note that an overwhelming majority of those initiatives passed.

For some it is too easy to discount the Federal role, citing local control, fear of regulation or simply misreading history. The fact is the Federal Government has been a partner with local government and the private sector in shaping the landscape and building communities since the Federal Government first started taking land away from the native Americans, who were largely hunters and gatherers, and gave it to European farmers, who cut and burned the forests for farms.

Now that President Clinton and Vice President GORE have made Livable Communities a priority, raising new levels of interest, it is more important than ever that the problems of dysfunctional communities be addressed by we in Congress.

This movement brings together communities, large and small, rural and urban, inner city and suburb. This Congress has an historic opportunity to rise above partisanship and business as usual to work together to improve the quality of life of all Americans.

These proposals will not end up costing great sums of money; indeed, by and large, they will save money and create wealth. They are not going to put people at risk. They will indeed strengthen the lives of our communities and enrich them.

It does not require picking winners and losers. Livable Communities do not discriminate against one another, they reach out to include people. There is something in it for everyone.

During the work of the last Congress, on the ISTEA reauthorization to create T–21, I used a scriptural reference found in Isaiah, 58:12. If anything, it is more applicable for the Livable Communities initiative.

> Those from among you shall build the old waste places; you shall rise up the foundations of many generations; and you shall be called the Repairer of the Breach, the Restorer of Streets to Dwell In.

In the weeks ahead, I will be suggesting simple, inexpensive steps that we can all take to make our communities safe, economically secure and healthy; from not having our communities held hostage to the whims of billionaire sports franchise owners, to making the Post Office obey local land use, planning and zoning codes and work with local communities before they make decisions that have the potential of tearing the heart out of historic small town America; to reforming

flood insurance, to make it more cost effective and efficient.

It is time for us in Congress to heed the Prophet Isaiah and to be about this important work of making our communities more livable.

□ 1630

AMERICA'S LEADERS, PAST AND PRESENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Madam Speaker, I would like to highlight tonight the accomplishments of Jennifer Valoppi, a woman who has served as a wonderful example for teenage girls in my community of South Florida, and at the same time she has committed herself to her profession, rising to excellence within her chosen field as a television anchor.

In 1997 Jennifer conceived, created and founded what is now a very successful program in South Florida called Women of Tomorrow. She convinced her employer, NBC 6, to sponsor this wonderful, ambitious program that has helped so many teens who otherwise might not have successful role models to look up to.

''Women of Tomorrow'' is structured in such a way that it pairs professional women in our South Florida area with teenage girls in order to improve their self-esteem, and it also provides guidance and nurturing in their lives. This fantastic program is designed to show young women the endless possibilities ahead of them as they embark on the beginning of their adult lives.

Mentors meet with small groups, usually no larger than 10 girls in a group, to discuss the girls' ambitions, their motivations, their positive attitudes, the achievement of their dreams, in addition to sharing personal stories of triumph and, of course, temporary setbacks and obstacles.

In addition to launching this wonderful organization devoted to teenage girls, Jennifer Valoppi is a multi-Emmy award winning journalist who has twice been named ''Best TV News Anchor.'' She inspires us with her dedication and her drive to improve the world around us.

Madam Speaker, Jennifer Valoppi has made a tremendous mark on our community. I applaud all of her efforts, and I hope that more women of South Florida get in touch with Jennifer and also become part of this teen mentoring program, Women of Tomorrow.

THE DANTE FASCELL NORTH-SOUTH CENTER

Ms. ROS-LEHTINEN. Madam Speaker, another leading citizen of our community unfortunately is no longer with us, and I would like to say a few words about this very unique individual.

In Latin there is a phrase ''sui generis'' which refers to something unique and rare. I can think of no other way to describe our former South Florida colleague, Dante Fascell. Dante was a man of vision and of skill, whose intellect and political sense were instrumental in the passage of countless foreign policy measures throughout his tenure in this House, and in particular during the 14 years that he had the great privilege of chairing the Committee on International Relations which was then called the House Foreign Affairs Committee.

Dante Fascell was a vital figure in the fight for democracy in my native homeland of Cuba, in all of Central America. He authored programs such as the Cuban Refugees Assistance Act, and he advocated the founding and was successful in establishing Radio and TV Marti. The freedom fighters throughout our Western Hemisphere always knew that they enjoyed the support of Chairman Dante Fascell because he not only fought to protect the national security interests of his country, our beloved United States, but he was unwavering in his efforts to help those who are struggling to regain their rights as freedom-loving human beings, as citizens of the world, and as brothers and sisters in the greater family of nations.

Dante Fascell understood the idiosyncracies, the internal political dynamics, the historical context, and the global developments which impacted our region, especially the North-South relations, and for this reason he spearheaded and was successful in the creation of the North-South Center in his hometown of Miami and his beloved university, the University of Miami. He did this in order to promote an even greater understanding of the issues, in order to move the discussions toward a proactive solution-based approach.

It is appropriate that the father of the North-South Center, the man whose vision and perseverance helped make this dream a reality, be honored by having the North-South Center carry his name and the University of Miami, and in this fashion the legacy of Dante Fascell will continue to inspire future generations of leaders.

So I am honored today to say some words of praise to a man who is no longer with us, Dante Fascell, but also to praise today's leaders who are very much with us, like Jennifer Valoppi, and who are leading the way for the women leaders of tomorrow.

WELCOMING MEMBERS TO THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Madam Speaker, I come to the floor this afternoon to welcome all Members, especially new Members, to the 106th Congress. Whether one is Republican or Democrat, I am your Congresswoman away from home, and I want to tell you a little bit about this city and a little bit about the assistance I can offer you while you are here, because you are going to spend more time in the District of Columbia than you will spend in your own district.

Some of you live here, all of you work here. Many of you will have your entertainment here. Matters arise in the city. If you need help, including help for your constituents, I hope you will call me. If you live in the city, there are inevitable problems that arise with your trash, with rodents. No tickets, please. We cannot take back tickets, for the most part, although there are a few instances where the District cannot write tickets for Members of Congress, and I suppose we will submit those to the District. What we really love are shortcuts to getting a marriage license. Since I have been in Congress, I have helped at least three Members get marriage licenses.

In any case, when one is wondering where to turn when anything arises in this city, whether it is city services or the city at large, please call my office.

On Monday, February 23, 1999, we are having a formal event called Ask Me About Washington. You and your staffs are invited, with a free lunch.

I want to tell you about hometown Washington. Forget what you have heard. A revolution has occurred in this city. It has a new mayor, a reinvigorated city council, and a control board that operates with a much reduced capacity. The city is in the hands of its new mayor, Tony Williams, the man who helped repair the city's finances and, as a result, got elected mayor. I work closely with him and have great hopes in what he can do for this city, because he has already done a great deal for the city when he was chief financial officer.

The city' problems came largely from the fact that since its establishment 200 years ago, it has been the only city in the United States that has carried State, county and municipal functions. It is a miracle that the District was up and standing so long carrying State functions, despite its big city urban problems that all of you have in your own States.

Congress has relieved the city of some of its State functions, much to the credit of the Congress and the President. So the District has had three years of surpluses and is no longer even close to insolvent.

You should also know about the city that it is a city at the very top in so many ways. We are fifth per capita in the United States in the number of residents who have a bachelor's degree. The residents keep this city running for the 25 million people who come here

to see the monuments and the city every year, and we keep it running out of our own pocket with $5 billion raised from taxpayers in the District. We do this with no grant from the Federal Government, despite the fact that the Federal Government takes 40 percent of the land off of our tax rolls for Federal office space and monuments.

We are third per capita in Federal income taxes paid to the Federal Treasury, and yet my folks have no representation in the Senate, and only me, a delegate, in the House. This is a historic anomaly, along with the fact that you will be asked to vote on local matters, occasional local matters affecting the District, and even on our appropriation, none of which is raised by the Federal Government. This is an anomaly that is impossible to justify today. All that we ask is that you be respectful of local government, as you insist in your own district and State. Congress should never intrude on the Democratic prerogatives of a local people, and I ask for that respect in the name of the people I represent.

Please know that you are in one of the most livable and beautiful cities in the United States. New Members will shortly be receiving a letter from me about this city. Members who have been here before will be receiving an update. You do not need to go far to know what a beautiful city this is as a hometown community. Not only the Congresswoman, but all of the elected officials and the residents stand ready to help you enjoy the city.

I want to be clear that my office is here at the disposal of Members of the House and the Senate. If you have a problem in the District, you do not have to call the District straight away to try to find out where and who to go to to deal with it. Call your Congresswoman away from home, Congresswoman ELEANOR HOLMES NORTON, who proudly represents the more than one-half million people who have the good fortune to live in the Nation's Capital.

ILL-ADVISED U.S. INTERVENTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Madam Speaker, I have always believed that national defense is one of the most and at times the most important and most legitimate function of our national government. I have strongly supported our military, although at times I have also supported some cost-saving measures in defense spending.

I voted for the Gulf War several years ago because Saddam Hussein had moved against another country, Kuwait, and was threatening others. He had what was considered to be the strongest military in the Middle East, although we now know that we vastly overestimated his strength. There were fears then that he might try to take over the entire region if he was not stopped.

A few months ago I voted for the $100 million U.S. contribution to try to remove him. From what I have read, Saddam Hussein appears to be a horrible megalomaniac, a terrible dictator who has killed people to stay in power, and I would agree with anything bad that one could say about him.

But I believe that Robert Novak, the nationally syndicated columnist and TV commentator, is right when he calls our action against Iraq ''a phony, political war.''

Iraq's military strength was almost wiped out by the Gulf War eight years ago. Our sanctions since that time have ruined what was left of Iraq's economy. Our latest bombings have been against an extremely weak, almost defenseless nation, and in fact, against a military the size and strength of ours, Iraq is defenseless. We are doing this to a country that made no overt action against us, and in fact did not even threaten to.

There is no threat to our national security. There is no vital U.S. interest at stake or that is even threatened. Iraq is not even a paper tiger today.

Some of our leaders have tried their best to make Iraq sound threatening by repeatedly talking about weapons of mass destruction, yet in several years of inspections by U.N. inspectors, no weapons of mass destruction were found. Besides, many nations, including us and our leading allies, have weapons of mass destruction. We cannot go bomb every nation that has some weapon of mass destruction.

We have spent over $2 billion on the Iraqi deployment over the last few months and are still spending huge amounts; many, many millions each day. This is a surrealistic war. Most Americans do not even feel like we are at war. The news from Iraq is not even making the front pages.

All we are doing is wasting billions of dollars and making enemies all over the world. We are repeatedly involving ourselves in ethnic, religious and historical conflicts, some of which have been going on for centuries and which will go on long after we pull out, if we ever do. All we are doing is wasting billions of dollars and making enemies all over the world.

We have turned our military into international social workers. A few years ago the front page of the Washington Post carried a story that said we had our troops in Haiti picking up garbage and settling domestic disputes. Last year on this floor I heard another Member say we had our troops in Bosnia giving rabies shots to dogs. Most Americans believe the Haitians should pick up their own garbage and that the Bosnians should give their own rabies shots.

By the way, the President originally promised we would be out of Bosnia by the end of 1996. Yes, 1996. This is February of 1999, and we are still there.

Now we are preparing to send troops to Kosovo. We sent troops to Haiti, Rwanda, Somalia, Bosnia, Iraq and now Kosovo, and billions and billions of dollars taken from low and middle-income Americans to finance all of this. Anyone who even dares to oppose any foreign intervention that the elites dream up is sarcastically, or at least unkindly, referred to as an isolationist. The interventionists will not discuss these issues on the merits without name-calling.

But it is not isolationist to believe that we should try to be friends to all nations. We end up making more enemies than friends when we take sides in every international dispute that pops up.

□ 1645

We cannot serve as the world's policeman. We cannot force our will on everyone. If we try, sometimes we will choose the wrong side. Just a few years ago we considered Iraq to be an ally against Iran. Even today our leaders tell us that the Iraqi people are not our enemies, but we are fast turning them into enemies.

Scott Ritter, the U.N. Inspector, resigned in protest in December, saying that we had rigged the UNSCOM report in order to justify our bombing. In August, after the President's ''apology'' flopped, we bombed the Sudan and Afghanistan. We rushed into that bombing so fast that only one of the members of the Joint Chiefs of Staff was informed. Paul Harvey and others have later reported that we had bombed a medicine factory, and we gained nothing from those bombings. We just, once again, wasted huge amounts of money and made more enemies.

Why are we doing all this? Is it to make our national leaders appear to be world statesmen? Is it to assure them a place in history? Is it to give the military justification for more funding? Is it a military desperately in search of a mission? We don't need all this bombing. Going to war should be the most reluctant decision we ever made. We should do so only as a very last resort, when all other reasonable alternatives have been exhausted.

Finally, Madam Speaker, while very few people seem to care about the Constitution anymore, it is unconstitutional to drop bombs on and go to war against another Nation without a declaration of war by Congress.

RULES OF COMMITTEE ON RESOURCES FOR THE 106TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Madam Speaker, I enclose for publication in the CONGRESSIONAL RECORD the rules of the Committee on Resources, adopted by voice vote on January 19, 1999, a quorum being present.

RULES FOR THE COMMITTEE ON RESOURCES

U.S. HOUSE OF REPRESENTATIVES, 106TH CONGRESS

Adopted January 19, 1999

RULE 1. RULES OF THE HOUSE; VICE CHAIRMEN

(a) Applicability of House Rules.

(1) The Rules of the House of Representatives, so far as they are applicable, are the rules of the Committee and its Subcommittees.

(2) Each Subcommittee is part of the Committee and is subject to the authority, direction and rules of the Committee. References in these rules to ''Committee'' and ''Chairman'' shall apply to each Subcommittee and its Chairman wherever applicable.

(3) House Rule XI is incorporated and made a part of the rules of the Committee to the extent applicable.

(b) Vice Chairmen.—Unless inconsistent with other rules, the Chairman shall appoint a Vice Chairman of the Committee and Vice Chairmen of each of the Subcommittees. If the Chairman of the Committee or Subcommittee is not present at any meeting of the Committee or Subcommittee, as the case may be, the Vice Chairman shall preside. If the Vice Chairman is not present, the ranking Member of the Majority party on the Committee or Subcommittee who is present shall preside at that meeting.

RULE 2. MEETINGS IN GENERAL

(a) Scheduled Meetings.—The Committee shall meet at 11 a.m. on the first Wednesday of each month that the House is in session, unless that meeting is canceled by the Chairman. The Committee shall also meet at the call of the Chairman subject to advance notice to all Members of the Committee. Special meetings shall be called and convened by the Chairman as provided in clause 2(c)(1) of House Rule XI. Any Committee meeting or hearing that conflicts with a party caucus, conference, or similar party meeting shall be rescheduled at the discretion of the Chairman, in consultation with the Ranking Minority Member. The Committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

(b) Open Meetings.—Each meeting for the transaction of business, including the markup of legislation, and each hearing of the Committee or a Subcommittee shall be open to the public, except as provided by clause 2(g) of House Rule XI.

(c) Broadcasting.—Whenever a meeting for the transaction of business, including the markup of legislation, or a hearing is open to the public, that meeting or hearing shall be open to coverage by television, radio, and still photography in accordance with clause 4 of House Rule XI.

(d) Oversight Plan.—No later than February 15 of the first session of each Congress, the Committee shall adopt its oversight plans for that Congress in accordance with clause 2(d)(1) of House Rule X.

RULE 3. PROCEDURES IN GENERAL

(a) Agenda of Meetings; Information for Members.—An agenda of the business to be considered at meetings shall be delivered to the office of each Member of the Committee no later than 48 hours before the meeting. This requirement may be waived by a majority vote of the Committee at the time of the consideration of the measure or matter. To the extent practicable, a summary of the major provisions of any bill being considered by the Committee, including the need for the bill and its effect on current law, will be available for the Members of the Committee no later than 48 hours before the meeting.

(b) Meetings and Hearings to Begin Promptly.—Each meeting or hearing of the Committee shall begin promptly at the time stipulated in the public announcement of the meeting or hearing.

(c) Addressing the Committee.—A Committee Member may address the Committee or a Subcommittee on any bill, motion, or other matter under consideration or may question a witness at a hearing only when recognized by the Chairman for that purpose. The time a Member may address the Committee or Subcommittee for any purpose or to question a witness shall be limited to five minutes, except as provided in Committee rule 4(g). A Member shall limit his remarks to the subject matter under consideration. The Chairman shall enforce the preceding provision.

(d) Quorums.

(1) A majority of the Members shall constitute a quorum for the reporting of any measure or recommendation, the authorizing of a subpoena or the closing of any meeting or hearing to the public under clause 2(g) of House Rule XI. Testimony and evidence may be received at any hearing at which there are at least two Members of the Committee present. For the purpose of transacting all other business of the Committee, one third of the Members shall constitute a quorum.

(2) When a call of the roll is required to ascertain the presence of a quorum, the offices of all Members shall be notified and the Members shall have not less than 10 minutes to prove their attendance. The Chairman shall have the discretion to waive this requirement when a quorum is actually present or whenever a quorum is secured and may direct the Clerk to note the names of all Members present within the 10-minute period.

(e) Participation of Members in Committee and Subcommittees.—All Members of the Committee may sit with any Subcommittee during any hearing, and by unanimous consent of the Members of the Subcommittee may participate in any meeting of hearing. However, a Member who is not a Member of the Subcommittee may not vote on any matter before the Subcommittee, be counted for purposes of establishing a quorum or raise points of order.

(f) Proxies.—No vote in the Committee or Subcommittee may be cast by proxy.

(g) Roll Call Votes.—Roll call votes shall be ordered on the demand of one-fifth of the Members present, or by any Member in the apparent absence of a quorum.

(h) Motions.—A motion to recess from day to day and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege.

(i) Layover and Copy of Bill.—No measure or recommendation reported by a Subcommittee shall be considered by the Committee until two calendar days from the time of Subcommittee action. No bill shall be considered by the Committee unless a copy has been delivered to the Office of each Member of the Committee requesting a copy. These requirements may be waived by a majority vote of the Committee at the time of consideration of the measure or recommendation.

(j) Access to Dais and Conference Room.—Access to the hearing rooms' daises and to the conference rooms adjacent to the Committee hearing rooms shall be limited to Members of Congress and employees of Congress during a meeting of the Committee.

(k) Cellular Telephones.—The use of cellular telephones is prohibited on the Committee dais during a meeting of the Committee.

RULE 4. HEARING PROCEDURES

(a) Announcement.—The Chairman shall publicly announce the date, place, and subject matter of any hearing at least one week before the hearing unless the Chairman, with the concurrence of the Ranking Minority Member, determines that there is good cause to begin the hearing sooner, or if the Committee so determines by majority vote. In these cases, the Chairman shall publicly announce the hearing at the earliest possible date. The Clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record and shall promptly enter the appropriate information into the Committee scheduling service of the House Information Systems as soon as possible after the public announcement is made.

(b) Written Statement; Oral Testimony.—Each witness who is to appear before the Committee or a Subcommittee shall file with the Clerk of the Committee or Subcommittee, at least two working days before the day of his or her appearance, a written statement of proposed testimony. Each witness shall limit his or her oral presentation to a five-minute summary of the written statement, unless the Chairman, in consultation with the Ranking Minority Member, extends this time period. In addition, all witnesses shall be required to submit with their testimony a resume of other statement describing their education, employment, professional affiliations and other background information pertinent to their testimony.

(c) Minority Witnesses.—When any hearing is conducted by the Committee or any Subcommittee upon any measure or matter, the Minority party Member on the Committee or Subcommittee shall be entitled, upon request to the Chairman by a majority of those Minority Members before the completion of the hearing, to call witnesses selected by the Minority to testify with respect to that measure or matter during at least one day of hearings thereon.

(d) Information for Members.—After announcement of a hearing, the Committee shall make available as soon as practical to all Members of the Committee a tentative witness list and to the extent practical a memorandum explaining the subject matter of the hearing (including relevant legislative reports and other necessary material). In addition, the Chairman shall make available to the Members of the Committee any official reports from departments and agencies on the subject matter as they are received.

(e) Subpoenas.—The Committee may authorize and issue a subpoena under clause 2(m) of House Rule XI if authorized by a majority of the Members voting. In addition, the Chairman of the Committee may authorize and issue subpoenas during any period of time in which the House of Representatives has adjourned for more than three days. Subpoenas shall be signed by the Chairman of the Committee, or any Member of the Committee authorized by the Committee, and may be served by any person designated by the Chairman or Member.

(f) Oaths.—The Chairman of the Committee or any Member designated by the Chairman may administer oaths to any witness before the Committee. All witnesses appearing in investigative hearings shall be administered the following oath by the Chairman or his designee prior to receiving the

testimony: ''Do you solemnly swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?''

(g) Opening Statements; Questions of Witnesses.

(1) Opening statements by Members may not be presented orally, unless the Chairman or his designee makes a statement, in which case the Ranking Minority Member or his designee may also make a statement. If a witness scheduled to testify at any hearing of the Committee is a constituent of a Member of the Committee, that Member shall be entitled to introduce the witness at the hearing.

(2) The questioning of witnesses in Committee and Subcommittee hearings shall be initiated by the Chairman, followed by the Ranking Minority Member and all other Members alternating between the Majority and Minority parties. In recognizing Members to question witnesses, the Chairman shall take into consideration the ratio of the Majority to Minority Members present and shall establish the order of recognition for questioning in a manner so as not to disadvantage the Members of the Majority or the Members of the Minority. A motion is in order to allow designated Majority and Minority party Members to question a witness for a specified period to be equally divided between the Majority and Minority parties. This period shall not exceed one hour in the aggregate.

(h) Investigative Hearings.—Clause 2(k) of House Rule XI shall govern investigative hearings of the Committee and its Subcommittees.

(i) Claims of Privilege.—Claims commonlaw privileges made by witnesses in hearings, or by interviewees or deponents in investigations or inquiries, are applicable only at the discretion of the Chairman, subject to appeal to the Committee.

RULE 5. FILING OF COMMITTEE REPORTS

(a) Duty of Chairman.—Whenever the Committee authorizes the favorable reporting of a measure from the Committee, the Chairman or his designee shall report the same to the House of Representatives and shall take all steps necessary to secure its passage without any additional authority needed to be set forth in the motion to report each individual measure. In appropriate cases, the authority set forth in this rule shall extend to moving in accordance with the Rules of the House of Representatives that the House be resolved into the Committee of the Whole House on the State of the Union for the consideration of the measure; and to moving in accordance with the Rules of the House of Representatives for the disposition of a Senate measure that is substantially the same as the House measure as reported.

(b) Filing.—A report on a measure which has been approved by the Committee shall be filed within seven calendar days (exclusive of days on which the House of Representatives is not in session) after the day on which there has been filed with the Committee Clerk a written request, signed by a majority of the Members of the Committee, for the reporting of that measure. Upon the filing with the Committee Clerk of this request, the Clerk shall transmit immediately to the Chairman notice of the filing of that request.

(c) Supplemental, Additional or Minority Views.—Any Member may, if notice is given at the time a bill or resolution is approved by the Committee, file supplemental, additional, or minority views. These views must be in writing and signed by each Member joining therein and be filed with the Committee Clerk not less than two additional calendar days (excluding Saturdays, Sundays and legal holidays except when the House is in session on those days) of the time the bill or resolution is approved by the Committee. This paragraph shall not preclude the filing of any supplemental report on any bill or resolution that may be required for the correction of any technical error in a previous report made by the Committee on that bill or resolution.

(d) Review by Members.—Each Member of the Committee shall be given an opportunity to review each proposed Committee report before it is filed with the Clerk of the House of Representatives. Nothing in this paragraph extends the time allowed for filing supplemental, additional or minority views under paragraph (c).

(e) Disclaimer.—All Committee or Subcommittee reports printed pursuant to legislative study or investigation and not approved by a majority vote of the Committee or Subcommittee, as appropriate, shall contain the following disclaimer on the cover of the report: ''This report has not been officially adopted by the {Committee on Resources} {Subcommittee} and may not therefore necessarily reflect the views of its Members.''.

RULE 6. ESTABLISHMENT OF SUBCOMMITTEES; FULL COMMITTEE JURISDICTION; BILL REFERRALS

(a) Subcommittees.—There shall be five standing Subcommittees of the Committee, with the following jurisdiction and responsibilities:

Subcommittee on National Parks and Public Lands

(1) Measures and matters related to the National Park System and its units, including Federal reserve water rights.

(2) The National Wilderness Preservation System, except for wilderness created from forest reserves from the public domain, and wilderness in Alaska.

(3) Wild and Scenic Rivers System, National Trails System, national heritage areas and other national units established for protection, conservation, preservation or recreational development administered by the Secretary of the Interior, other than coastal barriers.

(4) Military parks and battlefields, national cemeteries administered by the Secretary of the Interior, parks in and within the vicinity of the District of Columbia and the creation of monuments to the memory of individuals.

(5) Federal outdoor recreation plans, programs and administration including the Land and Water Conservation Fund, except those in public forests.

(6) Plans and programs concerning non-Federal outdoor recreation and land use, including related plans and programs authorized by the Land and Water Conservation Fund Act of 1965 and the Outdoor Recreation Act of 1963, except those in public forests.

(7) Preservation of prehistoric ruins and objects of interest on the public domain and other historic preservation programs and activities, including national monuments, historic sites and programs for international cooperation in the field of historic preservation.

(8) Matters concerning the following agencies and programs: Urban Parks and Recreation Recovery Program, Historic American Buildings Survey, Historic American Engineering Record, and U.S. Holocaust Memorial.

(9) Except for public lands in Alaska, public lands generally, including measures or matters relating to entry, easements, withdrawals, grazing and Federal reserved water rights.

(10) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

(11) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Subcommittee.

Subcommittee on Forests and Forest Health

(1) Except in Alaska, forest reservations, including management thereof, created from the public domain.

(2) Except for forest lands in Alaska,public forest lands generally, including measures or matters related to entry, easements, withdrawals and grazing.

(3) Except in Alaska, Federal reserved water rights on forest reserves.

(4) Wild and Scenic Rivers System, National Trails System, national heritage areas and other national units established for protection, conservation, preservation or recreational development administered by the Secretary of Agriculture.

(5) Federal and non-Federal outdoor recreation plans, programs and administration in public forests.

(6) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Subcommittee.

Subcommittee on Fisheries Conservation, Wildlife and Oceans

(1) Fisheries management and fisheries research generally, including the management of all commercial and recreational fisheries, the Magnuson-Stevens Fishery Conservation and Management Act, interjurisdictional fisheries, international fisheries agreements, aquaculture, seafood safety and fisheries promotion.

(2) Wildlife resources, including research, restoration, refuges and conservation.

(3) All matters pertaining to the protection of coastal and marine environments, including estuarine protection.

(4) Coastal barriers.

(5) Oceanography.

(6) Ocean engineering, including materials, technology and systems.

(7) Coastal zone management.

(8) Marine sanctuaries.

(9) U.N. Convention on the Law of the Sea.

(10) Sea Grant programs and marine extension services.

(11) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Subcommittee.

Subcommittee on Water and Power

(1) Generation and marketing of electric power from Federal water projects by Federally chartered or Federal regional power marketing authorities.

(2) All measures and matters concerning water resources planning conducted pursuant to the Water Resources Planning Act, water resource research and development programs and saline water research and development.

(3) Compacts relating to the use and apportionment of interstate waters, water rights and major interbasin water or power movement programs.

(4) All measures and matters pertaining to irrigation and reclamation projects and other water resources development programs, including policies and procedures.

(5) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Subcommittee.

Subcommittee on Energy and Mineral Resources

(1) All measures and matters concerning the U.S. Geological Survey, except for the activities and programs of the Water Resources Division or its successor.

(2) All measures and matters affecting geothermal resources.

(3) Conservation of United States uranium supply.

(4) Mining interests generally, including all matters involving mining regulation and enforcement, including the reclamation of mined lands, the environmental effects of mining, and the management of mineral receipts, mineral land laws and claims, long-range mineral programs and deep seabed mining.

(5) Mining schools, experimental stations and long-range mineral programs.

(6) Mineral resources on public lands.

(7) Conservation and development of oil and gas resources of the Outer Continental Shelf.

(8) Petroleum conservation on the public lands and conservation of the radium supply in the United States.

(9) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Subcommittee.

(b) Full Committee.—The Full Committee shall have the following jurisdiction and responsibilities:

(1) Measures and matters concerning the transportation of natural gas from or within Alaska and disposition of oil transported by the trans-Alaska oil pipeline.

(2) Measures and matters relating to Alaska public lands, including forestry and forest management issues, and Federal reserved water rights.

(3) Environmental and habitat measures and matters of general applicability.

(4) Measures relating to the welfare of Native Americans, including management of Indian lands in general and special measures relating to claims which are paid out of Indian funds.

(5) All matters regarding the relations of the United States with Native Americans and Native American tribes, including special oversight functions under clause 3(h) of Rule X of the Rules of the House of Representatives.

(6) All matters regarding Native Alaskans and Native Hawaiians.

(7) All matters related to the Federal trust responsibility to Native Americans and the sovereignty of Native Americans.

(8) All matters regarding insular areas of the United States.

(9) All measures or matters regarding the Freely Associated States and Antarctica.

(10) Cooperative efforts to encourage, enhance and improve international programs for the protection of the environment and the conservation of natural resources within the jurisdiction of the Committee.

(11) All measures and matters retained by the Full Committee under Committee rule 6(e).

(12) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Committee under House Rule X.

(c) Ex-officio Members.—The Chairman and Ranking Minority Member of the Committee may serve as ex-officio, Members of each standing Subcommittee to which the Chairman or the Ranking Minority Member have not been assigned. Ex-officio Members shall have the right to fully participate in Subcommittee activities but may not vote and may not be counted in establishing a quorum.

(d) Powers and Duties of Subcommittees.—Each Subcommittee is authorized to meet, hold hearings, receive evidence and report to the Committee on all matters within its jurisdiction. Each Subcommittee shall review and study, on a continuing basis, the application, administration, execution and effectiveness of those statutes, or parts of statutes, the subject matter of which is within that Subcommittee's jurisdiction; and the organization, operation, and regulations of any Federal agency or entity having responsibilities in or for the administration of such statutes, to determine whether these statutes are being implemented and carried out in accordance with the intent of Congress. Each Subcommittee shall review and study any conditions or circumstances indicating the need of enacting new or supplemental legislation within the jurisdiction of the Subcommittee.

(e) Referral to Subcommittees; Recall.

(1) Except as provided in paragraph (2) and for those matters within the jurisdiction of the Full Committee, every legislative measure or other matter referred to the Committee shall be referred to the Subcommittee of jurisdiction within two weeks of the date of its referral to the Committee. If any measure or matter is within or affects the jurisdiction of one or more Subcommittees, the Chairman may refer that measure or matter simultaneously to two or more Subcommittees for concurrent consideration or for consideration in sequence subject to appropriate time limits, or divide the matter into two or more parts and refer each part to a Subcommittee.

(2) The Chairman, with the approval of a majority of the Majority Members of the Committee, may refer a legislative measure or other matter to a select or special Subcommittee. A legislative measure or other matter referred by the Chairman to a Subcommittee may be recalled from the Subcommittee for direct consideration by the Full Committee, or for referral to another Subcommittee, provided Members of the Committee receive one week written notice of the recall and a majority of the Members of the Committee do not object. In addition, a legislative measure or other matter referred by the Chairman to a Subcommittee may be recalled from the Subcommittee at any time by majority vote of the Committee for direct consideration by the Full Committee or for referral to another Subcommittee.

(f) Consulation.—Each Subcommittee Chairman shall consult with the Chairman of the Full Committee prior to setting dates for Subcommittee meetings with a view towards avoiding whenever possible conflicting Committee and Subcommittee meetings.

(g) Vacancy.—A vacancy in the membership of a Subcommittee shall not affect the power of the remaining Members to execute the functions of the Subcommittee.

RULE 7. TASK FORCES, SPECIAL OR SELECT SUBCOMMITTEES

(a) Appointment.—The Chairman of the Committee is authorized, after consultation with the Ranking Minority Member, to appoint Task Forces, or special or select Subcommittees, to carry out the duties and functions of the Committee.

(b) Ex-Officio Members.—The Chairman and Ranking Minority Member of the Committee shall serve as ex-officio Members of each Task Force, or special or select Subcommittee.

(c) Party Ratios.—The ratio of Majority Members to Minority Members, excluding ex-officio Members, on each Task Force, special or select Subcommittee shall be as close as practicable to the ratio on the Full Committee.

(d) Temporary Resignation.—A Member can temporarily resign his or her position on a Subcommittee to serve on a Task Force, special or select Subcommittee without prejudice to the Member's seniority on the Subcommittee.

(e) Chairman and Ranking Minority Member.—The Chairman of any Task Force, or special or select Subcommittee shall be appointed by the Chairman of the Committee. The Ranking Minority Members shall select a Ranking Minority Member for each Task Force, or standing, special or select Subcommittee.

(f) Questioning of Witnesses.—Committee staff for the Majority and Minority Members may question a witness for equal specified times. The time for extended questioning of a witness under this authority shall be equal for the Majority staff and the Minority staff and may not exceed one hour in the aggregate.

RULE 8. RECOMMENDATION OF CONFEREES

Whenever it becomes necessary to appoint conferees on a particular measure, the Chairman shall recommend to the Speaker as conferees those Majority Members, as well as those Minority Members recommended to the Chairman by the Ranking Minority Member, primarily responsible for the measure. The ratio of Majority Members to Minority Members recommended for conferences shall be no greater than the ratio on the Committee.

RULE 9. COMMITTEE RECORDS

(a) Segregation of Records.—All Committee records shall be kept separate and distinct from the office records of individual Committee Members serving as Chairmen or Ranking Minority Members. These records shall be the property of the House and all Members shall have access to them in accordance with clause 2(e)(2) of House Rule XI.

(b) Availability.—The Committee shall make available to the public for review at reasonable times in the Committee office the following records:

(1) transcripts of public meetings and hearings, except those that are unrevised or unedited and intended solely for the use of the Committee; and

(2) the result of each rollcall vote taken in the Committee, including a description of the amendment, motion, order or other proposition voted on, the name of each Committee Member voting for or against a proposition, and the name of each member present but not voting.

(c) Archived Records.—Records of the Committee which are deposited with the National Archives shall be made available for public use pursuant to Rule VII of the Rules of the House of Representatives. The Chairman of the Committee shall notify the Ranking Minority Member of any decision to withhold a record pursuant to the Rules of the House of Representatives, and shall present the matter to the Committee upon written request of any Committee Member.

(d) Records of Closed Meetings.—Notwithstanding the other provisions of this rule, no records of Committee meetings or hearing which were closed to the public pursuant to the Rules of the House of Representatives shall be released to the public unless the Committee votes to release those records in accordance with the procedure used to close the Committee meeting.

(e) Classified Materials.—All classified materials shall be maintained in an appropriately secured location and shall be released only to authorized persons for review,

who shall not remove the material from the Committee offices without the written permission of the Chairman.

RULE 10. COMMITTEE BUDGET AND EXPENSES

(a) Budget.—At the beginning of each Congress, after consultation with the Chairman of each Subcommittee, the Chairman shall propose and present to the Committee for its approval a budget covering the funding required for staff, travel and miscellaneous expenses.

(b) Expense Resolution.—Upon approval by the Committee of each budget, the Chairman, acting pursuant to clause 6 of House Rule X, shall prepare and introduce in the House a supporting expense resolution, and take all action necessary to bring about its approval by the Committee on House Oversight and by the House of Representatives.

(c) Amendments.—The Chairman shall report to the Committee any amendments to each expense resolution and any related changes in the budget.

(d) Additional Expenses.—Authorization for the payment of additional or unforeseen Committee expenses may be procured by one or more additional expense resolutions processed in the same manner as set out under this rule.

(e) Monthly Reports.—Copies of each monthly report, prepared by the Chairman for the Committee on House Oversight, which shows expenditures made during the reporting period and cumulative for the year, anticipated expenditures for the projected Committee program, and detailed information on travel, shall be available to each Member.

RULE 11. COMMITTEE STAFF

(a) Rules and Policies.—Committee staff members are subject to the provisions of clause 9 of House Rule X, as well as any written personnel policies the Committee may from time to time adopt.

(b) Majority and Nonpartisan Staff.—The Chairman shall appoint, determine the remuneration of, and may remove, the legislative/investigative and administrative employees of the Committee not assigned to the Minority. The legislative/investigative and administrative staff of the Committee not assigned to the Minority shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of these staff members and delegate any authority he determines appropriate.

(c) Minority Staff.—The Ranking Minority Member of the Committee shall appoint, determine the remuneration of, and may remove, the legislative/investigative and administrative staff assigned to the Minority within the budget approved for those purposes. The legislative/investigative and administrative staff assigned to the Minority shall be under the general supervision and direction of the Ranking Minority Member of the Committee who may delegate any authority he determines appropriate.

(d) Availability.—The skills and services of all Committee staff shall be available to all Members of the Committee.

RULE 12. COMMITTEE TRAVEL

In addition to any written policies the Committee may from time to time adopt, all travel of Members and staff of the Committee or its Subcommittees, to hearings, meetings, conferences and investigations, including all foreign travel, must be authorized by the Full Committee Chairman prior to any public notice of the travel and prior to the actual travel. In the case of Minority staff, all travel shall first be approved by the Ranking Minority Member. Funds authorized for the Committee under clauses 6 and 7 of House Rule X are for expenses incurred in the Committee's activities within the United States.

RULE 13. CHANGES TO COMMITTEE RULES

The rules of the Committee may be modified, amended, or repealed, by a majority vote of the Committee, provided that 48 hours written notice of the proposed change has been provided each Member of the Committee prior to the meeting date on which the changes are to be discussed and voted on. A change to the rules of the Committee shall be published in the Congressional Record no later than 30 days after its approval.

RULE 14. OTHER PROCEDURES

The Chairman may establish procedures and take actions as may be necessary to carry out the rules of the Committee or to facilitate the effective administration of the Committee, in accordance with the rules of the Committee and the Rules of the House of Representatives.

RULES OF COMMITTEE ON EDUCATION AND THE WORKFORCE FOR THE 106TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GOODLING) is recognized for 5 minutes.

Mr. GOODLING. Madam Speaker, pursuant to clause 2(a) of Rule XI of the Rules of the House of Representatives, I hereby submit for publication in the CONGRESSIONAL RECORD the rules of the Committee on Education and the Workforce for the 106th Congress, as adopted by the Committee in open session on January 7, 1999.

THE RULES OF THE COMMITTEE ON EDUCATION AND THE WORKFORCE TOGETHER WITH PERTINENT HOUSE RULE FOR THE 106TH CONGRESS—ADOPTED JANUARY 7, 1999

RULE 1. REGULAR, ADDITIONAL, & SPECIAL MEETINGS: VICE-CHAIRMAN

(a) Regular meetings of the committee shall be held on the second Wednesday of each month at 9:30 a.m., while the House is in session. When the Chairman believes that the committee will not be considering any bill or resolution before the committee and that there is no other business to be transacted at a regular meeting, he will give each member of the committee, as far in advance of the day of the regular meeting as the circumstances make practicable, a written notice to that effect; and no committee meeting shall be held on that day.

(b) The Chairman may call and convene, as he considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purposes pursuant to that call of the Chairman.

(c) If at least three members of the committee desire that a special meeting of the committee be called by the Chairman, those members may file in the offices of the committee their written request to the Chairman for that special meeting. Immediately upon the filing of the request, the staff director of the committee shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour thereof, and the measure or matter to be considered at that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the staff director of the committee shall notify all members of the committee that such meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

(d) All legislative meetings of the committee and its subcommittees shall be open to the public, including radio, television and still photography coverage. No business meeting of the committee, other than regularly scheduled meetings, may be held without each member being given reasonable notice. Such meeting shall be called to order and presided over by the Chairman, or in the absence of the Chairman, by the vice-chairman, or the Chairman's designee.

(e)(1) The Chairman of the committee and of each of the subcommittees shall designate a vice-chairman of the committee or subcommittee, as the case may be.

(2) The Chairman of the committee or of a subcommittee, as appropriate, shall preside at meetings or hearings, or, in the absence of the chairman, the vice-chairman, or the Chairman's designee shall preside.

RULE 2. QUESTIONING OF WITNESSES

(a) Subject to clauses (b) and (c), Committee members may question witnesses only when they have been recognized by the Chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The questioning of witnesses in both committee and subcommittee hearings shall be initiated by the Chairman, followed by the ranking minority party member and all other members alternating between the majority and minority party in order of the member's appearance at the hearing. In recognizing members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority party members present and shall establish the order of recognition for questioning in such a manner as not to place the members of the majority party in a disadvantageous position.

(b) The Chairman may permit a specified number of members to question a witness for longer than five minutes. The time for extended questioning of a witness under this clause shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

(c) The Chairman may permit committee staff for the majority and the minority party members to question a witness for equal specified periods. The time for extended questioning of a witness under this clause shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

RULE 3. RECORDS & ROLLCALLS

(a) Written records shall be kept of the proceedings of the committee and of each subcommittee, including a record of the votes on any question on which a rollcall is demanded. The result of each such rollcall vote shall be made available by the committee or subcommittee for inspection by the public at reasonable times in the offices

of the committee or subcommittee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each member voting for and each member present but not voting. A record vote may be demanded by one-fifth of the members present or, in the apparent absence of a quorum, by any one member.

(b) In accordance with *Rule VII* of the *Rules of the House of Representatives*, any official permanent record of the committee (including any record of a legislative, oversight, or other activity of the committee or any subcommittee) shall be made available for public use if such record has been in existence for 30 years, except that—

(1) any record that the committee (or a subcommittee) makes available for public use before such record is delivered to the Archivist under clause 2 of *Rule VII* of the *Rules of the House of Representatives* shall be made available immediately, including any record described in subsection (a) of this Rule;

(2) any investigative record that contains personal data relating to a specific living individual (the disclosure of which would be an unwarranted invasion of personal privacy), any administrative record with respect to personnel, and any record with respect to a hearing closed pursuant to clause 2(g)(2) of *Rule XI* of the *Rules of the House of Representatives* shall be made available if such record has been in existence for 50 years; or

(3) except as otherwise provided by order of the House, any record of the committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.

(c) The official permanent records of the committee include noncurrent records of the committee (including subcommittees) delivered by the Clerk of the House of Representatives to the Archivist of the United States for preservation at the National Archives and Records Administration, which are the property of and remain subject to the rules and orders of the House of Representatives.

(d)(1) Any order of the committee with respect to any matter described in paragraph (2) of this subsection shall be adopted only if the notice requirements of committee Rule 18(c) have been met, a quorum consisting of a majority of the members of the committee is present at the time of the vote, and a majority of those present and voting approve the adoption of the order, which shall be submitted to the Clerk of the House of Representatives, together with any accompanying report.

(2) This subsection applies to any order of the committee which—

(A) provides for the non-availability of any record subject to subsection (b) of this rule for a period longer than the period otherwise applicable; or

(B) is subsequent to, and constitutes a later order under clause 4(b) of *Rule VII* of the *Rules of the House of Representatives*, regarding a determination of the Clerk of the House of Representatives with respect to authorizing the Archivist of the United States to make available for public use the records delivered to the Archivist under clause 2 of *Rule VII* of the *Rules of the House of Representatives*; or

(C) specifies a time, schedule, or condition for availability pursuant to subsection (b)(3) of this Rule.

RULE 4. STANDING SUBCOMMITTEES & JURISDICTION

(a) There shall be five standing subcommittees with the following jurisdictions:

Subcommittee on Early Childhood, Youth, and Families.—Education from preschool through the high school level including, but not limited to, elementary and secondary education generally, school lunch and child nutrition, and overseas dependent schools; all matters dealing with programs and services for the care and treatment of children, including the Head Start Act, the Juvenile Justice and Delinquency Prevention Act, and the Runaway Youth Act; special education programs including, but not limited to, alcohol and drug abuse, education of the disabled, environmental education, Office of Educational Research and Improvement, migrant and agricultural labor education, daycare, child adoption, child abuse and domestic violence; poverty programs, including the Community Services Block Grant Act and the Low Income Home Energy Assistance Program (LIHEAP). Also, the Subcommittee shall have oversight over Titles III, IV, V, VI (as it pertains to block grants), VII, VIII, IX, X, XI, XII, XIII and XIV of the Elementary and Secondary Education Act.

Subcommittee on Postsecondary Education, Training, and Life-Long Learning.—Vocational education and education beyond the high school level including, but not limited to, higher education generally, training and apprenticeship (including the Job Training Partnership Act, the Full Employment and Balanced Growth Act, displaced homemakers, Work Incentive Program, welfare work requirements), adult basic education (family literacy), rehabilitation, professional development, and postsecondary student assistance, employment services, and pre-service and in-service teacher training; all matters dealing with programs and services for the elderly, including nutrition programs and the Older Americans Act; the Native American Programs Act, all domestic volunteer programs, library services and construction, the Robert A. Taft Institute, the Institute for Peace and programs related to the arts and humanities, museum services, and arts and artifacts indemnity. Also, the Subcommittee shall have oversight over Titles II and VI (as it pertains to federal funds for teachers) of the Elementary and Secondary Education Act.

Subcommittee on Workforce Protections.—Wages and hours of labor including, but not limited to, Davis-Bacon Act, Walsh-Healey Act, Fair Labor Standards Act (including child labor), workers' compensation generally, Longshore and Harbor Workers' Compensation Act, Federal Employees' Compensation Act, Migrant and Seasonal Agricultural Worker Protection Act, Service Contract Act, Family and Medical Leave Act, Worker Adjustment and Retraining Notification Act, Employee Polygraph Protection Act of 1988, workers' health and safety including, but not limited to, occupational safety and health, mine health and safety, youth camp safety, and migrant and agricultural labor health and safety.

Subcommittee on Employer-Employee Relations.—All matters dealing with relationships between employers and employees generally including, but not limited to, the National Labor Relations Act, Bureau of Labor Statistics, pension, health, and other employee benefits, including the Employee Retirement Income Security Act (ERISA); and all matters related to equal employment opportunity and civil rights in employment.

Subcommittee on Oversight and Investigations.—All matters related to oversight and investigations of activities of all Federal departments and agencies dealing with issues of education, human resources or workplace policy. This subcommittee will not have legislative jurisdiction and no bills or resolutions will be referred to it.

(b) The following matters shall be held at the full committee for consideration: the Elementary and Secondary Education Act, the Anti-Drug Abuse Act, the Congressional Accountability Act, welfare, trade, immigration, homeless assistance and national education standards.

(c) The majority party members of the committee may provide for such temporary, ad hoc subcommittees as determined to be appropriate.

RULE 5. EX OFFICIO MEMBERSHIP

The Chairman of the committee and the ranking minority party member shall be *ex officio* members, but not voting members, of each subcommittee to which such Chairman or ranking minority party member has not been assigned.

RULE 6. SPECIAL ASSIGNMENT OF MEMBERS

To facilitate the oversight and other legislative and investigative activities of the committee, the Chairman of the committee may, at the request of a subcommittee chairman, make a temporary assignment of any member of the committee to such subcommittee for the purpose of constituting a quorum and of enabling such member to participate in any public hearing, investigation, or study by such subcommittee to be held outside of Washington, DC. Any member of the committee may attend public hearings of any subcommittee and any member of the committee may question witnesses only when they have been recognized by the Chairman for that purpose.

RULE 7. SUBCOMMITTEE CHAIRMANSHIPS

The method for selection of chairmen of the subcommittees shall be at the discretion of the full committee Chairman, unless a majority of the majority party members of the full committee disapprove of the action of the Chairman.

RULE 8. SUBCOMMITTEE SCHEDULING

Subcommittee chairmen shall set meeting dates after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings, wherever possible. Available dates for subcommittee meetings during the session shall be assigned by the Chairman to the subcommittees as nearly as practicable in rotation and in accordance with their workloads. No subcommittee markups shall be scheduled simultaneously. As far as practicable, the Chairman shall not schedule a subcommittee markup during a full committee markup, nor shall the Chairman schedule any hearing during a markup.

RULE 9. SUBCOMMITTEE RULES

The rules of the committee shall be the rules of its subcommittees.

RULE 10. COMMITTEE STAFF

(a) The employees of the committee shall be appointed by the Chairman in consultation with subcommittee chairmen and other majority party members of the committee within the budget approved for such purposes by the committee.

(b) The staff appointed by the minority shall have their remuneration determined in such manner as the minority party members of the committee shall determine within the budget approved for such purposes by the committee.

RULE 11. SUPERVISION & DUTIES OF COMMITTEE STAFF

The staff of the committee shall be under the general supervision and direction of the

Chairman, who shall establish and assign the duties and responsibilities of such staff members and delegate authority as he determines appropriate. The staff appointed by the minority shall be under the general supervision and direction of the minority party members of the committee, who may delegate such authority as they determine appropriate. All committee staff shall be assigned to committee business and no other duties may be assigned to them.

RULE 12. HEARINGS PROCEDURE

(a) The Chairman, in the case of hearings to be conducted by the committee, and the appropriate subcommittee chairman, in the case of hearings to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the committee or subcommittee determines that there is good cause to begin such hearing at an earlier date. In the latter event, the Chairman or the subcommittee chairman, as the case may be, shall make such public announcement at the earliest possible date. To the extent practicable, the Chairman or the subcommittee chairman shall make public announcement of the final list of witnesses scheduled to testify at least 48 hours before the commencement of the hearing. The staff director of the committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) All opening statements at hearings conducted by the committee or any subcommittee will be made part of the permanent written record. Opening statements by members may not be presented orally, unless the Chairman of the committee or any subcommittee determines that one statement from the Chairman or a designee will be presented, in which case the ranking minority party member or a designee may also make a statement. If a witness scheduled to testify at any hearing of the Committee or any subcommittee is a constituent of a member of the committee or subcommittee, such member shall be entitled to introduce such witness at the hearing.

(c) To the extent practicable, witnesses who are to appear before the committee or a subcommittee shall file with the staff director of the committee, at least 48 hours in advance of their appearance, a written statement of their proposed testimony, together with a brief summary thereof, and shall limit their oral presentation to a summary thereof. The staff director of the committee shall promptly furnish to the staff director of the minority a copy of such testimony submitted to the committee pursuant to this rule.

(d) When any hearing is conducted by the committee or any subcommittee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the Chairman by a majority of these minority party members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon. The minority party may waive this right by calling at least one witness during a committee hearing or subcommittee hearing.

RULE 13. MEETINGS-HEARINGS-QUORUMS

(a) Subcommittees are authorized to hold hearings, receive exhibits, hear witnesses, and report to the committee for final action, together with such recommendations as may be agreed upon by the subcommittee. No such meetings or hearings, however, shall be held outside of Washington, DC, or during a recess or adjournment of the House without the prior authorization of the committee Chairman. Where feasible and practicable, 14 days' notice will be given of such meeting or hearing.

(b) One-third of the members of the committee or subcommittee shall constitute a quorum for taking any action other than amending committee rules, closing a meeting from the public, reporting a measure or recommendation, or in the case of the committee or a subcommittee authorizing a subpoena. For the enumerated actions, a majority of the committee or subcommittee shall constitute a quorum. Any two members shall constitute a quorum for the purpose of taking testimony and receiving evidence.

(c) When a bill or resolution is being considered by the committee or a subcommittee, members shall provide the clerk in a timely manner a sufficient number of written copies of any amendment offered, so as to enable each member present to receive a copy thereof prior to taking action. A point of order may be made against any amendment not reduced to writing. A copy of each such amendment shall be maintained in the public records of the committee or subcommittee, as the case may be.

(d) In the conduct of hearings of subcommittees sitting jointly, the rules otherwise applicable to all subcommittees shall likewise apply to joint subcommittee hearings for purposes of such shared consideration.

(e) No person other than a Member of Congress or Congressional staff may walk in, stand in, or be seated at the rostrum area during a meeting or hearing of the Committee or Subcommittee unless authorized by the Chairman.

RULE 14. SUBPOENA AUTHORITY

The power to authorize and issue subpoenas is delegated to the Chairman of the full committee, as provided for under clause 2(m)(3)(A)(i) of *Rule XI of the Rules of the House of Representatives*. The Chairman shall notify the ranking minority member prior to issuing any subpoena under such authority. To the extent practicable, the Chairman shall consult with the ranking minority member at least 24 hours in advance of a subpoena being issued under such authority excluding Saturdays, Sundays, and federal holidays. As soon as practicable after issuing any subpoena under such authority, the Chairman shall notify in writing all members of the Committee of the issuance of the subpoena.

RULE 15. REPORTS OF SUBCOMMITTEES

(a) Whenever a subcommittee has ordered a bill, resolution, or other matter to be reported to the committee, the chairman of the subcommittee reporting the bill, resolution, or matter to the committee, or any member authorized by the subcommittee to do so, may report such bill, resolution, or matter to the committee. It shall be the duty of the chairman of the subcommittee to report or cause to be reported promptly such bill, resolution, or matter, and to take or cause to be taken the necessary steps to bring such bill, resolution, or matter to a vote.

(b) In any event, the report, described in the proviso in subsection (d) of this rule, of any subcommittee on a measure which has been approved by the subcommittee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the staff director of the committee a written request, signed by a majority of the members of the subcommittee, for the reporting of that measure. Upon the filing of any such request, the staff director of the committee shall transmit immediately to the chairman of the subcommittee a notice of the filing of that request.

(c) All committee or subcommittee reports printed pursuant to legislative study or investigation and not approved by a majority vote of the committee or subcommittee, as appropriate, shall contain the following disclaimer on the cover of such report:

''This report has not been officially adopted by the Committee on Education and the Workforce (or pertinent subcommittee thereof) and may not therefore necessarily reflect the views of its members.''

The minority party members of the committee or subcommittee shall have three calendar days, excluding weekends and holidays, to file, as part of the printed report, supplemental, minority, or additional views.

(d) Bills, resolutions, or other matters favorably reported by a subcommittee shall automatically be placed upon the agenda of the committee as of the time they are reported. No bill or resolution or other matter reported by a subcommittee shall be considered by the full committee unless it has been delivered or electronically sent to all members and notice of its prior transmission has been in the hands of all members at least 48 hours prior to such consideration; a member of the Committee shall receive, upon his or her request, a paper copy of the such bill, resolution, or other matter reported. When a bill is reported from a subcommittee, such measure shall be accompanied by a section-by-section analysis; and, if the Chairman of the committee so requires (in response to a request from the ranking minority member of the committee or for other reasons), a comparison showing proposed changes in existing law.

(e) To the extent practicable, any report prepared pursuant to a committee or subcommittee study or investigation shall be available to members no later than 48 hours prior to consideration of any such report by the committee or subcommittee, as the case may be.

RULE 16. VOTES

With respect to each rollcall vote on a motion to report any bill, resolution or matter of a public character, and on any amendment offered thereto, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the committee report on the measure or matter.

RULE 17. AUTHORIZATION FOR TRAVEL

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of committee members and staff. Travel to be paid from funds set aside for the full committee for any member or any staff member shall be paid only upon the prior authorization of the Chairman. Travel may be authorized by the Chairman for any member and any staff member in connection with the attendance of hearings conducted by the committee or any subcommittee thereof and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. The Chairman shall review travel requests to assure the validity to committee business. Before such authorization is given,

there shall be submitted to the Chairman in writing the following:

(1) the purpose of the travel;

(2) the dates during which the travel is to be made and the date of dates of the event for which the travel is being made;

(3) the location of the event for which the travel is to be made; and

(4) the names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the committee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee or pertinent subcommittees, prior authorization must be obtained from the Chairman, or, in the case of a subcommittee, from the subcommittee chairman and the Chairman. Before such authorization is given, there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spent in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought.

(2) Requests for travel outside the United States may be initiated by the Chairman or the chairman of a subcommittee (except that individuals may submit a request to the Chairman for the purpose of attending a conference or meeting) and shall be limited to members and permanent employees of the committee.

(3) The Chairman shall not approve a request involving travel outside the United States while the House is in session (except in the case of attendance at meetings and conferences or where circumstances warrant an exception).

(4) At the conclusion of any hearing, investigation, study, meeting, or conference for which travel outside the United States has been authorized pursuant to this rule, each subcommittee (or members and staff attending meetings or conferences) shall submit a written report to the Chairman covering the activities of the subcommittee and containing the results of these activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and the Committee on House Oversight pertaining to such travel, including rules, procedures, and limitations prescribed by the Committee on House Oversight with respect to domestic and foreign expense allowances.

(d) Prior to the Chairman's authorization for any travel, the ranking minority party member shall be given a copy of the written request therefor.

RULE 18. REFERRAL OF BILLS, RESOLUTIONS, & OTHER MATTERS

(a) The Chairman shall consult with subcommittee chairman regarding referral, to the appropriate subcommittees, of such bills, resolutions, and other matters, which have been referred to the committee. Once printed copies of a bill, resolution, or other matter are available to the Committee, the Chairman shall, within three weeks of such availability, provide notice of referral, if any, to the appropriate subcommittee.

(b) Referral to a subcommittee shall not be made until three days shall have elapsed after written notification of such proposed referral to all subcommittee chairmen, at which time such proposed referral shall be made unless one or more subcommittee chairmen shall have given written notice to the Chairman of the full committee and to the chairman of each subcommittee that he [or she] intends to question such proposed referral at the next regularly scheduled meeting of the committee, or at a special meeting of the committee called for that purpose, at which time referral shall be made by the majority members of the committee. All bills shall be referred under this rule to the subcommittee of proper jurisdiction without regard to whether the author is or is not a member of the subcommittee. A bill, resolution, or other matter referred to a subcommittee in accordance with this rule may be recalled therefrom at any time by a vote of the majority members of the committee for the committee's direct consideration or for reference to another subcommittee.

(c) All members of the committee shall be given at least 24 hours' notice prior to the direct consideration of any bill, resolution, or other matter by the committee; but this requirement may be waived upon determination, by a majority of the members voting, that emergency or urgent circumstances require immediate consideration thereof.

RULE 19. COMMITTEE REPORTS

(a) All committee reports on bills or resolutions shall comply with the provisions of clause 2 of Rule XI and clauses 2, 3, and 4 of Rule XIII of the Rules of the House of Representatives.

(b) No such report shall be filed until copies of the proposed report have been available to all members at least 36 hours prior to such filing in the House. No material change shall be made in the report distributed to members unless agreed to by majority vote; but any member or members of the committee may file, as part of the printed report, individual, minority, or dissenting views, without regard to the proceeding provisions of this rule.

(c) Such 36-hour period shall not conclude earlier then the end of the period provided under clause 4 of Rule XIII of the Rules of the House of Representatives after the committee approves a measure or matter if a member, at the time of such approval, gives notice of intention to file supplemental, minority, or additional views for inclusion as part of the printed report.

(d) The report on activities of the committee required under clause 1 of Rule XI of the Rules of the House of Representatives, shall include the following disclaimer in the document transmitting the report to the Clerk of the House:

''This report has not been officially adopted by the Committee on Education and the Workforce or any subcommittee thereof and therefore may not necessarily reflect the views of its members.''

Such disclaimer need not be included if the report was circulated to all members of the committee at least 7 days prior to its submission to the House and provision is made for the filing by any member, as part of the printed report, of individual, minority, or dissenting views.

RULE 20. MEASURES TO BE CONSIDERED UNDER SUSPENSION

A member of the committee may not seek to suspend the Rules of the House on any bill, resolution, or other matter which has been modified after such measure is ordered, unless notice of such action has been given to the Chairman and ranking minority member of the full committee.

RULE 21. BUDGET & EXPENSES

(a) The Chairman in consultation with the majority party members of the committee shall prepare a preliminary budget. Such budget shall include necessary amounts for staff personnel, for necessary travel, investigation, and other expenses of the committee; and, after consultation with the minority party membership, the Chairman shall include amounts budgeted to the minority party members for staff personnel to be under the direction and supervision of the minority party, travel expenses of minority party members and staff, and minority party office expenses. All travel expenses of minority party members and staff shall be paid for out of the amounts so set aside and budgeted. The Chairman shall take whatever action is necessary to have the budget as finally approved by the committee duly authorized by the House. After such budget shall have been adopted, no change shall be made in such budget unless approved by the committee. The Chairman or the chairman of any standing subcommittee may initiate necessary travel requests as provided in Rule 16 within the limits of their portion of the consolidated budget as approved by the House, and the Chairman may execute necessary vouchers therefor.

(b) Subject to the rules of the House of Representatives and procedures prescribed by the Committee on House Oversight, and with the prior authorization of the Chairman of the committee in each case, there may be expended in any one session of Congress for necessary travel expenses of witnesses attending hearings in Washington, DC:

(1) out of funds budgeted and set aside for each subcommittee, not to exceed $5,000 for expenses of witnesses attending hearings of each such subcommittee;

(2) out of funds budgeted for the full committee majority, to exceed $5,000 for expenses of witnesses attending full committee hearings; and

(3) out of funds set aside to the minority party members;

(A) not to exceed, for each of the subcommittees, $5,000 for expenses for witnesses attending subcommittee hearings; and

(B) not to exceed $5,000 for expenses of witnesses attending full committee hearings.

(c) A full and detailed monthly report accounting for all expenditures of committee funds shall be maintained in the committee office, where it shall be available to each member of the committee. Such report shall show the amount and purpose of each expenditure, and the budget to which such expenditure is attributed.

RULE 22. APPOINTMENT OF CONFEREES AND NOTICE OF CONFERENCE AND MEETINGS

(a) Whenever in the legislative process it becomes necessary to appoint conferees, the Chairman shall recommend to the Speaker as conferees the names of those members of the subcommittee which handled the legislation in the order of their seniority upon such subcommittee and such other committee members as the Chairman may designate with the approval of the majority party members. Recommendations of the Chairman to the Speaker shall provide a ratio of

majority party members to minority party members no less favorable to the majority party than the ratio of majority members to minority party members on the full committee. In making assignments of minority party members as conferees, the Chairman shall consult with the ranking minority party member of the committee.

(b) After the appointment of conferees pursuant to clause 11 of *Rule I* of the *Rules of the House of Representatives* for matters within the jurisdiction of the committee, the Chairman shall notify all members appointed to the conference of meetings at least 48 hours before the commencement of the meeting. If such notice is not possible, then notice shall be given as soon as possible.

RULE 23. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

(a) Whenever a hearing or meeting conducted by the Committee or any subcommittee is open to the public, those proceedings shall be open to coverage by electronic media and still photography subject to the requirements of *Rule XI*, clause 4 of the *Rules of the House of Representatives* and except when the hearing or meeting is closed pursuant to the *Rules of the House of Representatives* and of the Committee. The coverage of any hearing or meeting of the Committee or any subcommittee thereof by electronic media or still photography shall be under the direct supervision of the Chairman of the Committee, the subcommittee chairman, or other member of the Committee presiding at such hearing or meeting and may be terminated by such member in accordance with the Rules of the House.

(b) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(c) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

RULE 24. INTERROGATORIES AND DEPOSITIONS

(a) Pursuant to an appropriate House Resolution, the Chairman, after consultation with the ranking minority member, may order the taking of interrogatories or depositions. Notices for the taking of depositions shall specify the date, time, and place of examination. Answers to interrogatories shall be answered fully in writing under oath, and depositions shall be taken under oath administered by a member or a person otherwise authorized by law to administer oaths. Consultation with the ranking minority member shall include three business days written notice before any deposition is taken. All members shall also receive three business days written notice that a deposition has been scheduled.

(b) The committee shall not initiate contempt proceedings based on the failure of a witness to appear at a deposition unless the deposition notice was accompanied by a committee subpoena issued by the chairman.

(c) Witnesses may be accompanied at a deposition by counsel to advise them of their rights. No one may be present at depositions except members, committee staff, or committee contractors designated by the chairman or the ranking minority member, an official reporter, the witness, and the witness's counsel. Observers or counsel for other persons or for agencies under investigation may not attend.

(d) A deposition shall be conducted by any member, committee staff or committee contractor designated by the chairman or ranking minority member. When depositions are conducted by committee staff or committee contractors there shall be no more than two committee staff or committee contractors permitted to question a witness per round. One of the committee staff or committee contractors shall be designated by the chairman and the other shall be designated by the ranking minority member. Other committee staff designated by the chairman or the ranking minority member may attend, but are not permitted to pose questions to the witness.

(e) Questions in the deposition will be propounded in rounds. A round shall include as much time as is necessary to ask all pending questions. In each round, a member, or committee staff or committee contractor designated by the chairman shall ask questions first, and the member, committee staff or committee contractor designated by the ranking minority member shall ask questions second.

(f) An objection by the witness as to the form of a question shall be noted for the record. If a witness objects to a question and refuses to answer, the member, committee staff or committee contractor may proceed with the deposition, or may obtain, at that time or a subsequent time, a ruling on the objection by telephone or otherwise from the chairman or a member designated chairman. The committee shall not initiate procedures leading to contempt proceedings based on a refusal to answer a question at a deposition unless the witness refuses to testify after an objection of the witness has been overruled and after the witness has been ordered by the chairman or a member designated by the chairman to answer the question. Overruled objections shall be preserved for committee consideration within the meaning of clause 2(k)(8) of *Rule XI* of the *Rules of the House of Representatives*.

(g) Committee staff shall insure that the testimony is either transcribed or electronically recorded, or both. If a witness's testimony is transcribed, the witness or the witness's counsel shall be afforded an opportunity to review a copy. No later than five calendar days thereafter, the witness may submit suggested changes to the chairman. Committee staff may make any typographical and technical changes requested by the witness. Substantive changes, modifications, clarifications, or amendments to the deposition transcript submitted by the witness must be accompanied by a letter requesting the changes and a statement of the witness's reasons for each proposed change. A letter requesting any substantive changes, modifications, clarifications, or amendments must be signed by the witness. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript conditioned upon the witness signing the transcript.

(h) The individual administering the oath, if other than a member, shall certify on the transcript that the witness was duly sworn. Transcription and recording services shall be provided through the House Office of the Official Reporters.

(i) A witness shall not be required to testify unless the witness has been provided with a copy of the committee's rules.

(j) This rule is applicable to the committee's investigation into the administration of labor laws by government agencies, including the Departments of Labor and Justice concerning the International Brotherhood of the Teamsters and other related matters.

RULE 25. CHANGES IN COMMITTEE RULES

The committee shall not consider a proposed change in these rules unless the text of such change has been delivered or electronically sent to all members and notice of its prior transmission has been in the hands of all members at least 48 hours prior to such consideration; a member of the Committee shall receive, upon his or her request, a paper copy of the such proposed change.

PERTINENT RULE OF THE U.S. HOUSE OF REPRESENTATIVES—106TH CONGRESS

RULE XI, CLAUSE 2(K)

Investigative hearing procedures

(k)(1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and of this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted that the evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person—

(A) notwithstanding paragraph (g)(2), such testimony or evidence shall be presented in executive session if, in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, the committee determines by vote of a majority of those present that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the Committee shall proceed to receive such testimony in open session only if the committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person. In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) Evidence or testimony taken in executive session, and proceedings conducted in executive session, may be released or used in public sessions only when authorized by the committee, a majority being present.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinence of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

TOPICS AFFECTING AMERICA TODAY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from California (Mr. SHERMAN) is recognized for 60 minutes as the designee of the minority leader.

Mr. SHERMAN. Madam Speaker, it is my intention to speak for the full 60 minutes if my colleague, the gentleman from New Jersey (Mr. PALLONE)

does not arrive, but if he does, I would hope that could be brought to my attention so I could yield the second half of the hour to him.

Madam Speaker, this is my first speech of the 106th Congress. I would like to welcome back my old colleagues and welcome our new colleagues. My new colleagues, I have not had a chance to introduce myself to all of them. Let me take this opportunity to do so. I am BRAD SHERMAN. I hail from America's best-named city, Sherman Oaks, California.

Periodically I seek an opportunity to give a rather long speech detailing a number of different topics. This saves the House from having to listen to a number of short speeches, each on a separate topic. Madam Speaker, I often give these speeches at the beginning or the end of a session. I have a number of topics I would like to address today. The first of these is the current unpleasantness occurring in the Senate, the problems involving Monica Lewinsky, the President, et cetera.

First, I would like to point out that it is unprecedented in our lifetimes that an impeachment would be sent by this House over to the other body on a 99 percent partisan vote, with 99 percent of the one party voting against the impeachment resolution. I think it is a shame, a shame on this House, that we would send an impeachment resolution to the Senate under those circumstances.

I came to the floor last month, actually in December, to voice my opinion that in not allowing Members to vote on censure and then sending over articles of impeachment on a partisan basis, that this House had gone astray. I said at that time that I would call this House a kangaroo court, but that would be an insult to marsupials everywhere.

That shame has hung in this Chamber until yesterday, because I think we owe a debt of gratitude to prosecutor Ken Starr for doing something so outrageous that it has distracted America from the mistake we made here in December.

Ken Starr knows, we all know, that the President is not going to be removed from office. Yet a leak emerges from Ken Starr's office that he thinks that he will criminally indict and perhaps prosecute a sitting president. This is not only a constitutional outrage, it represents perhaps the worst prosecutorial judgment ever displayed.

Ken Starr has, in the words of George Stephanopolous, pursued the President with the hateful tenacity of Captain Ahab, and it is time for this misjudgment to stop. It is bizarre that Ken Starr, seeing that the President will not be removed from office, has begun to fantasize that he will barge into the Oval Office and place handcuffs on the President of the United States, perhaps during some meeting with a foreign head of State. We must take actions to show that this pipsqueak cannot barge into the oval office, and cannot seek to undermine the executive branch of government.

I recognize, and we all recognize, that President Clinton remains subject to the rule of law. While he is president he can be impeached, and has been by this House, and could be removed by the Senate. As soon as he leaves the White House he is subject to all manner of criminal action, and of course, is subject to civil action as well.

We need to look long-term at what this means for the presidency. I ask those on the Republican side of the aisle to remember that some day it may be one of theirs who is sitting as president. Imagine some future president, and imagine his enemies, or should I say, her enemies, begin immediately upon inauguration day to conspire, and they gather a few million dollars to carry it out.

I used the word ''conspire.'' ''Conspiracy'' is not the right word, they simply gather together to begin a plan to undermine some new president. They gather a few million dollars together, and the first thing they do is announce that they will pay a $1 million book advance to any Secret Service agent willing to write a book titled ''Embarrassing Things I Learned While Guarding the President.''

Imagine that they place an ad in the Star tabloid, or should I call it the Ken Starr tabloid. The ad goes something like this: ''Have you been abducted by a UFO? Was the President working with the aliens? If so, contact us. We will give you $1 million, and we will help you sue the President for everything that went on on the spaceship. And by the way, if that UFO abduction happened, if the spacecraft happened to land in any one of these three or four counties where we have, in some obscure county somewhere in America, a friendly prosecutor, then we will also be able to urge that obscure prosecutor to bring criminal action against the President.''

I am not sure that a lawsuit or criminal prosecution for participation in an UFO abduction against a president of the United States would last all that long. It might be thrown out of court. But I give this as an illustration of the road we are going down.

That road is that the enemies of every president, those who are most blinded by their hatred of that president, will begin to try to destroy a president by finding out secrets and embarrassing tidbits from the Secret Service, by convincing people to begin civil suits that will distract the President and embarrass him or her, and by trying to convince local prosecutors around the country, even in the most obscure counties, to bring criminal actions against the President.

For these reasons I think it is important that this House adopt, and I look forward to beginning to draft, a Presidential Protection Act. The basic tenets of this act would be three in number. The first is that those who work for the Secret Service would be required to keep what they learn confidential. Even if they want to write a book, they should not be allowed to do so, based on secrets they learned on the job.

Second, of course, they should enjoy a privilege from being compelled to testify about those secrets. There might be a few exceptions, but imagine a situation where a Secret Service agent could testify about how long this meeting took place, or how many times the President contacted this or that adviser. Imagine the chilling effect it would have if a president felt he could not reach out or she could not reach out to advisers around the country because the names of those advisers or even the nature of what they discuss could be a matter of public discovery.

Second, a Presidential Protection Act, or rather, a Presidency Protection Act, should provide that as to all criminal actions, or attempts at criminal prosecution, that we toll the statute of limitations. So if there is a 5-year statute of limitations on a particular crime, that any day that occurs while an individual is serving in the White House as president would not count toward that 5-year period.

Then we provide that there will be no criminal indictments or trials of anyone while they are president of the United States. We could provide that under certain circumstances testimony could be taken, in case some witness might die or become unavailable in the years that someone served in the White House. But clearly, no president of the United States should have to worry for a minute about the criminal law system being visited upon him or her by a politically-motivated prosecutor.

Finally, we need to have a very similar proceedings dealing with civil suits, that the statute of limitations is tolled; that is to say, in nonlegal jargon, the suit is put in the freezer, and it can be tried after a presidency is completed.

I know that the Supreme Court ruled, in the Jones vs. Clinton case, that you could sue a sitting president. The Supreme Court noted that the Congress could change that result. The Supreme Court argued that a civil suit against the President would not be an undue distraction. Clearly, later events have proven otherwise.

I am, frankly, surprised, given the number and the power of certain individuals who hate this president, that there have not been a dozen or a hundred other civil lawsuits, trumped-up, real, or imagined, for this or that reason brought against the President. I make these comments not to invite such highly destructive behavior, but rather, to illustrate why the House and

the Senate must act to make it clear that any civil lawsuit against the President is put in the freezer, that the statute is tolled until the presidency is over.

As I pointed out, such a statute would be just as protective of a Republican president as a Democratic president, and given the heightened level of partisanship that has occurred as a result of those who are scheming to try to destroy President Clinton, given the fact that that higher level of partisanship, unfortunately, is beginning to afflict both parties, I think it is critical that we act now to make sure that small groups of well-financed individuals cannot destroy a presidency.

I will be circulating a letter to my colleagues urging that they sign onto a bill, but even before that, urging that they give me their comments or meet with me in the drafting of a bill so that I can have bipartisan input into how it is drafted.

I am considering and would like my colleagues to comment on whether, on an emergency basis, we need to adopt a bill just dealing with criminal prosecutions, and making it very clear to Ken Starr that he is not empowered, and no prosecutor is empowered, to go barging into the Oval Office with a pair of handcuffs. The very possibility, the very argument that that could legally occur, undermines our system of government and makes us a laughingstock around the world.

I would now like to shift to international relations. As many of my colleagues know, I served on the Committee on International Relations. I do want to comment about our friendship with Greece and the Republic of Cyprus. We all know that the very essence of democracy and so many of the values that are at the core of Americanism developed in Greece.

□ 1700

Greece and Cyprus want nothing more at this point than to defend themselves from the possibility of air attack and have sought air defense missiles. I regret very much that the administration pressured the government of Cyprus not to deploy air defense missiles that had been acquired.

I agree with the administration. Cyprus should not have acquired missiles from Russia. Cyprus should have acquired missiles built in the 24th Congressional District in California. When the United States is willing to sell Greece and Cyprus the air defense mechanisms that it needs, there will be no need for Greece and Cyprus to try to buy these from other places and potentially have Russian technicians on Greek or Cyprian soil.

These are defensive weapons. They add to the stability of the Aegean. We ought to change our policy and make it very clear to Cyprus and Greece that we are willing to sell defensive weapons to those two countries on the one proviso that the manufacturers be located in the 24th Congressional District.

I had the honor to accompany the President of the United States on his trip to the Middle East in December. I want to applaud the President for making that visit. I also want to point out that the President was warmly welcomed by all the various legislators and officials of the Palestinian Authority and the Palestinian National Council.

But after the President left, Yasser Arafat made statements in support of Iraq and calling for an Arab meeting to condemn American policy with regard to Iraq. Just a few days after the President departed and we all departed, he was once again talking about a unilateral declaration of statehood. There is nothing worse for the peace process than a unilateral declaration of statehood by the Palestinian Authority.

Here, this year in Congress, we need to make it clear that immediately, without further action, upon any declaration of statehood made on a unilateral basis by the Palestinian Authority, all American aid to that Authority stops. And all American representatives at all international organizations, especially the World Bank and similar organizations must vote against any aid to the Palestinian Authority after such a destabilizing effort.

I want to applaud the administration for remaining involved and dedicated to peace in the Middle East but point out that pressuring Israel is not the way to achieve that peace. Israel has been pro America whether we had a Republican administration or a Democratic administration, a Republican House or a Democratic House. We should remain dedicated allies of Israel whether the government in Jerusalem is Likud or Labour, the new party being organized and headed by Isaac Mordecai and others.

In looking at the situation in the Middle East, we need to focus on both the short-term and long-term needs for security. All too much of the focus has quite naturally been on the short-term needs as if land for peace meant a peace consisting of nothing more than a month without a terrorist incident or a year without a bomb. Any such shallow definition of peace will not generate the kind of treaty that is eventually necessary for a final agreement with the Palestinians.

Can we ask the Israelis to make the kinds of concessions, even in part, that the Palestinians are asking for if peace means only peace with the Palestinians? Instead, as part of any peace agreement, Yasser Arafat personally and the entire Palestinian Authority must be willing to become apostles for peace, must be willing to go to every Arab capital, every Islamic capital, and urge the recognition of Israel, trade relations with Israel, and most important of all, a general recognition that Israel is a permanent, inherent part of the Middle East.

There are those in the Arab world who describe Israel as just the second of the crusader states, non-Islamic states created in the holy land that lasted less than two centuries. That cannot continue. We cannot have Arab children educated for war or taught that Israel is eventually to be driven in the ocean.

For that reason, we need to change Arab education just as much as we need to make any changes in any of the borders between zone A, zone B and zone C of the West Bank; A, B, and C being different levels of Palestinian Authority and Israeli military control.

Land for peace must involve sowing the seeds of peace, knowing that it will take a generation or two or three for them to bear fruit, but sowing the seeds of peace in an organized and systemic manner throughout the Middle East.

This is critical to Israel's long-term security. Because any student of history will tell us, and any student of current military affairs will tell us that, if Israel ever faces the possibility of losing another war or some war in the future, it will not be to an Army based in Ramallah. If Israel must fear for its security in the sense of potentially losing a war, it must fear armies based in Baghdad, Teheran, Cairo or Damascus.

Not only is this a reflection of current military realities or potential future military realities. And when I say current military realities, clearly Israel will not lose a war in the next decade or two. No combination of its enemies or potential enemies could beat it.

But we must look, not one or two decades, but one or two centuries in the future and recognize that, at various times in the past, Egypt, Syria, Babylon now Iraq, and Persia now Iran, have all conquered the Holy Land. We must create a situation where it is as unthinkable in Cairo to erase Israel from the map as it would be unthinkable in Paris to think of erasing the Netherlands or Belgium from the map.

I should also focus on the importance in the peace process to improving the Palestinian economy. A recent report by the Israeli government shows Israel's dedication on this subject. But the fact remains that there are close to 200,000 guest workers in Israel, workers occupying jobs that could be held by Palestinians without displacing a single Israeli.

These guest workers hail from such countries as the Philippines and Thailand. Of course we in this body are interested in the future success of the Thai economy and the Philippine economy. Yet, when it comes to policy in

the Middle East, Israel's contribution to the economic recovery of Thailand is not as important for the Middle East as is economic development of the Palestinian Authority and of Palestinians in general.

I had a chance to talk to Palestinian legislators. I feared that, as a matter of being politically correct or proud, that they would reject or pooh-pooh or minimize the concept of Palestinians working almost exclusively in nonprestigious jobs in the Israeli economy.

What I found among Palestinian leaders to the very highest levels was practicality and an understanding of how important it is that especially young Palestinian men have a future for themselves and their families and not bitterness and the time on their hands to plot to join Hamas and other terrorist groups.

With that in mind, I would suggest that, as part of an overall peace process and only in return for Palestinian concessions, that Israel endeavor to provide to the Palestinians rather than to guest workers those jobs within its economy for which Israelis will not be hired.

This could be done through a flat prohibition on guest workers other than those arriving from the Palestinian Authority or some sort of tax on employers who employ guest workers from outside the Palestinian areas.

But whatever steps are taken, the need for Palestinian jobs is as important as it may seem as just a practical aspect, not on the same level as issues of war and peace. Yet it is, I believe, critical toward forming the kind of peaceful relationship that will last into the future.

A second part of this came up when I visited the industrial estate at Gaza. This is the proudest economic achievement of the Palestinian Authority and is a site where American aid has been successful in creating a desalinization plant to provide industrial quality water and some drinking quality water for industry at a site which, if everything works out well, should employ 20,000 Palestinians.

There is, however, one thing that keeps this site from being as effective as it could be, attracting the kind of investment that it would want, and of course I hope this site goes further, but there should be a second avenue toward Palestinian employment in the industrial sectors; and that would be an industrial site on the Israeli side of the border designed to provide investors with Israeli levels of security, Israeli government, Israeli levels of assurance that there will never be an expropriation, Israeli levels of assurance that the currency will always be convertible, all of the reasons that investors prefer to invest in developed countries and at the same time be accessible by Palestinian workers who would come to work there without necessarily having access to the rest of Israel.

Imagine the opportunity to invest in an area where you have a developed country's government, and of course corruption exists in all governments, but much less in developed countries than in most developing countries, Israeli level security, Israeli level absence of corruption and the risk of corruption or the belief that there might be corruption.

Even if the Palestinian Authority is able to create a corruption-free government, it will always suffer from the general belief of investors that a Third World country is more difficult to do business in than a developed country.

Imagine all of the benefits of investing in a developed country and at the same time having access to the American markets through the U.S.-Israel Free Trade Agreement and at the same time having access to Israeli technology and engineers and business acumen and at the same time having access to low cost industrial labor provided by the Palestinians.

I should point out that we will see future developments; that the Palestinians may be eager to have industrial jobs today with Israel providing some of the more technological expertise. I am confident that if we are able to achieve peace in the Middle East, the Palestinians will develop their own industrial and engineering expertise. It is written nowhere in any sacred text that the Palestinians will always live in a Third World country or Third World economy.

□ 1715

We now want to shift our attention to our relationships with China. In focusing on China, we see three abominations. The first is Chinese policy toward proliferation. Wherever we see the risk of proliferation, whether it be in Iran or Pakistan or North Korea, there is evidence that China has provided either nuclear weapons or the technology to build them, or missiles or the technology to build missiles.

Certainly, China cannot enjoy the friendly relations with the United States which it seeks if it is going to be the source of such dangerous proliferation.

The second abomination is China's work on human rights, where human rights activists were arrested so very recently in another step backward for China.

Finally, but I think most importantly, is China's adverse impact on human rights in the United States through its decision to avoid importing from America. China sends us $66 billion of exports. One cannot go into any store and not find goods made in China. Yet, China accepts only $11 billion of American exports. $66 billion to $11 billion is arguably the most lopsided trading relationship in the history of mankind and womankind; 66-to-11.

Sometimes that means U.S. workers lose their jobs because Chinese imports come in and take those jobs away. Sometimes, though, the goods being imported from China could not be profitably manufactured here in the United States, but I would argue that if we bought our tennis shoes from India, if we bought our garments from Bangladesh, that if 100 toy companies could be formed in the Caribbean, that these Caribbean countries, that Bangladesh, that India, would be recycling those dollars into the United States; that they would be buying billions of dollars of our goods if we would be buying additional billions of dollars of their goods; not even necessarily on a barter or quid pro quo basis, but any economic development in a free country means that the citizens and businesses are free to buy American.

The trade deficit we have with China is not the product of free economic decisions. It is not necessarily the product of any law that the Chinese Government has published. It is a result of oral instructions, unprovable, to major Chinese enterprises to buy American last.

Those who would say the solution is to admit China into the World Trade Organization must ask themselves: What Chinese enterprise would buy American goods if a local communist party commissar said orally in a telephone conversation, we know we have changed the law, we know that it is legal to buy these American goods without tariffs, we had to change the law, but Mr. Chinese businessman, the commissar could easily say, if you decide to buy American goods you will be sent to the reeducation camp.

What could we do? Bring a charge before the WTO? This would be a situation, and it happens now and would happen in the future until the Chinese government agrees that a country that they sell $66 billion of goods to must be a country they are willing to buy $66 billion of goods from.

The problem we have in this House is what lever do we use to try to force a strong bargaining position? I would point out that we are in an amazingly strong bargaining position. If we could just go without tennis shoes for a month, if we could just satisfy our need for toys elsewhere for a month, the Chinese economy would be brought to its knees and we would have the kind of negotiations that we need.

Instead, we cannot even threaten China with the possibility that we would play fairly and expose them to anything like the trade barriers that our products are subject to.

The administration, unfortunately, will not bargain hard, and the only device available to us here is to deny Most Favored Nation status to China and that is too Draconian a penalty. What we need to do is make it clear that if we deny Most Favored Nation status to China, that at least the first year or two or three of that denial that

we will not adopt all and to the full extent the taxes and tariffs on Chinese goods that such an action would call for. Clearly we do not need to treat Chinese goods the way we treat goods from Cuba or North Korea or Libya or other countries that do not enjoy Most Favored Nation status. We will never have the votes on this floor to impose that level of tariff on Chinese goods.

So what we must do, and I had an opportunity to talk to our colleague, the gentleman from New Jersey (Mr. SMITH) about this, and it will be an unusual combination if I and the gentleman from New Jersey (Mr. SMITH) ever do anything together, is provide by statute, and even if it is vetoed its meaning would be clear, that if and when we deny Most Favored Nation status to China that we would expose its goods to only 20 percent of the tariffs otherwise applicable by that decision.

So, for example, if China can import into the United States a pair of tennis shoes with only a one dollar tariff, given the fact that China enjoys MFN status and in the absence of MFN status the tax would be $11, which would cripple China's ability to send those tennis shoes to the United States, that we would provide that in the first year of MFN denial, the tariff would be only the tariff applicable to MFN countries plus ten percent of the additional tariff imposed on nonMFN countries.

In this example, we would add one dollar of tariff to the dollar we place now on Chinese tennis shoes and then a year later we would add another dollar, and after that perhaps another dollar so that the immediate effect on U.S. Chinese trade is substantial but not so enormous that members of this Congress are unwilling to vote for it.

I look forward to working with as many of my colleagues as are interested to craft some mechanism to deprive China of some of the benefits that it enjoys under MFN.

The gentleman from New Jersey (Mr. SMITH) had an interesting bill to at least deny MFN to those products made in enterprises owned by the People's Liberation Army and while that is, I think, a good thing for us to do I would point out that we cannot count on China to properly identify for us which enterprises are so owned and which enterprise manufactured which goods.

I would now turn our attention to the budget and comment on the current debate as to who deserves credit for our booming economy today. Is it the Federal Reserve Board and its chairman Alan Greenspan, or the political system, chiefly President Clinton?

I would argue that it is the latter. Mr. Greenspan has done an outstanding job and shown tremendous capacity, but what he has done is pretty much the same as his predecessors would have done, the same as most, I would say all, mainstream economists would have called upon him to do.

There is no particular genius in knowing that interest rates can be low and inflation rates will be kept low if we run a declining Federal deficit or, better yet, a surplus at the Federal level. For many years, those of us concerned with the U.S. economy, for many years mainstream economists have said, that it would not take a genius to give us low interest rates and low inflation rates if we had fiscally responsible management of the Federal Government, and then they would go on to say but, of course, that is politically impossible.

Under President Clinton's leadership, we have done the impossible. We have shown that democracy can be fiscally responsible. Keep in mind the new Euro that was adopted in Europe, in order to join this new currency, the rule was that European countries, and they all had a very hard time meeting this standard, would have to have a national deficit of only 3 percent of their gross national product. Not a single European country even thought of running a surplus in its national government.

For any democracy to not cut taxes, all the way to running a huge deficit, to not increase spending at least until the outer limits of a possible deficit are reached, for any democracy to say no to those who want to spend money and no or not very much to those who want to cut taxes, requires a level of political genius seen in only one place in the world in recent decades, and that is here in Washington.

Now I would point out that at the beginning of 1998, our Republican colleagues suggested an $800 billion, let me stress this, an $800 billion tax cut over, I believe, a 5-year period; a tax cut of almost a trillion dollars. Had we adopted that provision we might have been popular for a day or a week or a month, but in fact we would have crippled this outstanding economic recovery.

Now, I am for tax cuts. When we were able to say no to a trillion dollars worth of tax cuts and instead what was before this House was $80 billion, less than one-tenth of what had been proposed before, I voted for it, and I hope that we have some genuine tax cuts that we can actually afford. Keep in mind, a decision to vote for $80 billion in tax cuts instead of $800 billion in tax cuts is $720 billion of saying no to our own constituents, and that is something we need to have the courage to do.

I hope in a minute to talk about the nature of the kind of tax cut that we would adopt, but I want to point out that there has been agreement that we should save 62 percent of the upcoming surplus for Social Security. Reaching agreement on that is not enough. We need our colleagues on the Republican side of the aisle to agree that we reserve 15 percent of the surplus for Medicare because it does our seniors little good to tell them that Social Security is safe until the year 2055 and, of course, we should reach a way to say 2075, but even saying that Social Security is safe until 2055 rings hollow unless we can make sure that Medicare is there, too.

Another element of the budget that I think is very important, and for which I praise the President, is dealing with the Land and Water Conservation Fund. We have a number of special funds that are part of the Federal Government. We have a transportation fund. It is funded with tax dollars paid by motorists when they buy gasoline. We assured those taxpayers we would spend the money for road improvements and repair and for many years, until last year, we cheated them out of that promise by spending less out of the transportation fund and using that to hide the deficit we were running in the general fund.

□ 1730

We finally are treating the transportation fund as a separate, sacrosanct fund. We have a Social Security fund. It is funded by employer and employee contributions that are to be used exclusively for Social Security. That fund needs to be sacrosanct and used for those purposes.

And least known of the three special funds I will mention is the Land and Water Conservation Fund. It is funded out of Federal royalties from offshore oil drilling and takes in roughly $900 million a year. For many years we spent only a tiny fraction of the Land and Water Conservation Fund on its intended purpose. Keep in mind when that fund was created in 1965 it was a grand compromise and an outstanding deal. It said that if our environment is going to be impaired by offshore oil drilling as it is in various places, and should not be but it is, then the funds that result from that should be used to preserve our environment in other places and should be set aside to buy land to conserve our heritage.

Well, when I first got to Congress, only 14 percent of the funds being taken in by the Land and Water Conservation Fund were used to buy our precious lands to protect them from development and to give something to our children. I am very proud of the fact that in 1998 this House spent virtually all of the Land and Water Conservation Fund to acquire critically needed lands.

And now as we look to the first budget of the new millennium, we must keep faith with the law that established the Land and Water Conservation Fund, and we should applaud the President for presenting us with a budget that provides for enormous surpluses, that safeguards Social Security

and Medicare and at the same time allows us to spend nearly a billion dollars in preserving our land for posterity.

I especially want to complement the President for including within that $5 million to preserve the Santa Monica Mountains by buying critically necessary tracts within those mountains. For my colleagues' edification, I will point out that one out of every 17 Americans, not one out of every 17 southern Californians, not one out of 17 Californians, one-seventeenth of all Americans live within an hour's drive of the Santa Monica Mountains National Recreation Area.

There is no better investment in not just recreational opportunities but the chance to get out into nature and unwind for one-seventeenth of the country than to preserve the Santa Monica Mountains. We need to do that one parcel at a time, one fiscal year at a time, until the land acquisition plan is fully implemented. To do less would be to turn to southern Californians and say, if you want to unwind, fine, drive to Yellowstone, and after a thousand miles of hectic travel you can unwind in America's most premier national park. We need to have national parks close to where people live. We have one in the Santa Monica Mountains.

While I am focusing on local issues, I should also point out the most important transportation need of the southern California area, and that is dealing with the intersection of the San Diego Freeway and the Ventura Freeway, the 405 and the 101. I want to applaud our State government for beginning a $10 to $15 million plan to provide some immediate quick fixes and one additional lane in order to deal with the huge snarl of traffic at that interchange. But these quick fixes and moderate amounts of expenditures will not be enough to solve the problem. I want to thank Secretary Rodney Slater for providing for a half-million-dollar study of what can be done to deal with this intersection and the transition roads that have to accommodate almost half a million cars every day.

Madam Speaker, I would like to use the last 10 minutes of my presentation, and I thank the House for giving me this much time, to focus on one particular type of tax cut that I hope will have bipartisan support, and that is the need to reform our estate tax laws to dramatically reduce the amount of estate planning, the length of documents and the literal legal torture that we put our elderly and our near-elderly through as a result of an estate planning process that yields virtually no revenue from the middle-class and upper middle-class individuals who need to go through the process.

Let me describe that process briefly. We have an estate tax that reaps, I believe, $17 billion in revenue for this country. It is designed to get revenue from the wealthy as great wealth passes from one generation to another. We designed the law so that a married couple could leave $1.2 million to their children with no tax at all. That is the tax policy that we have established, $1.2 million tax-free.

But we adopted that tax policy in a bizarre way. And when I say, by the way, $1.2 million, that number is going to be ratcheted up over the next decade to a total of $2 million, depending upon, of course, when people die and that estate tax becomes applicable. In my presentation here I will use the old figures, the $600,000 figures and the $1.2 million figures.

That is to say, how is it that current law provides for that $1.2 million exemption? It provides a $600,000 exclusion to each of the two spouses. So what do they have to do to take advantage of this $1.2 million exemption? They have to write a long, complicated estate planning document and bypass trust so that when the first spouse dies, that first spouse does not just leave all the family assets to the surviving spouse. Oh, no. That would trigger an estate tax of major proportion when the second spouse dies. Instead, the first spouse to die must leave $600,000 in a trust for the benefit of the surviving spouse. The effect is virtually the same, but the legal complexities are enormous.

First, just drawing the instrument is a $1,000 to $3,000 legal fee tax imposed on any couple that believes that when the second of them to dies it is possible that their assets will exceed $600,000. And given the possibility that homes in southern California would go up in value with the same rapidity next decade as they did last decade, every middle-class married couple sees that as at least a possibility.

Keep in mind, those who fail to go through this excruciating estate planning process, and I will describe why I think it is excruciating because I have lived it, are told, well, if the second spouse dies, there will be a quarter of a million dollars of extra Federal tax that you could have avoided, a quarter-million-dollar penalty on the family for failing to go through this complicated estate planning process.

But the estate planning process is not over. It seems to be over but it is not over when the trust is documented and the couple leaves the lawyer's office with a 50-page document. Because there will come a time when the first spouse dies, and at that point complicated legal steps need to be taken so that assets are put into the trust and other assets are assigned to the widow or widower, and then every year thereafter that trust has got to fill out a separate income tax return. Assets have to be kept separate.

Imagine trying to explain for the 20th time to a 95-year-old widow or widower how some assets they have control over and are in trust, which they are only allowed to touch under certain circumstances but get the income under other circumstances, and other assets are in a different trust. Why do we afflict America's elderly, especially our widows and widowers, with the need to be in these bypass trusts?

Now, I am not talking here, by the way, of the living trusts that are established to avoid probate in many of our States. Those are genuinely simple. But built within so many of them are these bypass trusts, created not to avoid probate but created to deal with very complicated tax laws.

What we should do instead is provide that when the first spouse dies, they can leave all the assets, or some portion of them, to the surviving spouse, and any unused portion of the unified credit, the in effect $600,000 exemption, goes to the surviving spouse. In the simplest plan this would mean when the first spouse died, all of the assets could go to the widow or widower. When the widow or widower passes on later, $1.2 million would be exempt from tax and the rest would be subject to tax.

This is the same tax effect that most couples will be faced with. I just think they should be able to reach it without living with these trusts throughout the widowhood or widowerhood of the surviving spouse.

Now, the Joint Tax Committee has informed me that they believe that this kind of change would deprive the Federal Government of a billion dollars a year in revenue. For those who want to see a significant estate tax reduction, that is a strong reason to join me in this proposed estate tax change.

But I would argue that that billion-dollar reduction in revenue is almost entirely illusory, because the bill as I would propose it would provide tax benefits no greater than any married couple could get simply by visiting a lawyer and paying a $1,500 legal fee. The vast majority of couples with assets of over $600,000 will do just that, and as a result they will obtain through complication the tax savings that I would like to provide through simplicity.

I look forward to working with the staff of the Joint Tax Committee to get a more reasonable revenue estimate of this estate tax simplification, and I look forward to working with as many of my colleagues who are interested in crafting legislation to try to simplify the life of every middle-class and upper middle-class widow and widower in this country.

I want to thank the Chair for extending so much time. I want to thank my colleagues for their patience in allowing me to get so many matters off my chest.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON TOMORROW

Mr. WELLER. Madam Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with tomorrow.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

TIME FOR A TAX CUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. WELLER) is recognized for 5 minutes.

Mr. WELLER. Madam Speaker, I have the privilege of representing one of the most diverse districts in America. I represent the south side of Chicago and the south suburbs in Cook and Will Counties, industrial communities like Joliet, bedroom communities like Morris and New Lennox, farm towns like Tonica and Mazon.

I hear one common message as I travel throughout this very diverse district and listen to the concerns of the people I have the privilege of representing. That message is fairly simple. That is, the American people want us to work together, they want us to come up with solutions to the challenges that we face.

When I was elected in 1994, I was elected with that message of finding solutions and finding ways to change how Washington works, to make Washington more responsive to the folks back home.

□ 1745

We were elected, of course, to bring those solutions to the challenges of balancing the budget, and raising take-home pay by lowering taxes, and reforming welfare and taming the IRS. But there were a lot of folks here in Washington who said, you know, those are challenges that you will never solve, that you will never be able to do that, and they said it just could not be done. And I am proud to say tonight that we did. We did do what we were told we could not do. I am proud that our accomplishments include the first balanced budget in 28 years, the first middle class tax cut in 16 years, the first real welfare reform in a generation and the first ever reform of the IRS. Our efforts produced a balanced budget that has now generated a projected surplus of extra tax revenue of $2.3 trillion over the next 10 years. We now have a $500 per child tax credit that is going to benefit 3 million children in my State of Illinois. Welfare reform that has succeeded in reducing welfare rolls by 25 percent, and taxpayers now enjoy the same rights with the IRS that they have in a courtroom. For the first time taxpayers are innocent until proven guilty.

Madam Speaker, these are real accomplishments of this Congress, and I am proud to have been part of those accomplishments, but we also have greater challenges ahead of us.

Because this Congress held the President's feet to the fire, we balanced the budget, and now we are collecting more in taxes than we are spending, something new here in Washington, and the question before this House and this Congress in Washington is: What do we do with that extra tax revenue, $2.3 trillion, an extra tax revenue? We are collecting more than we are spending.

I think it is pretty clear. There was an agreement, a bipartisan agreement, that the first priority for this extra tax revenue is to save Social Security, to make sure that we keep Social Security on sound footing for our seniors and future generations, and I do want to note that last fall the Republican House passed and sent to the Senate legislation that would earmark 90 percent of the surplus of extra tax revenue for saving Social Security. Now this year President Clinton says he only needs 62 percent; we can save Social Security with 62 percent. Well, we agreed that at a minimum we should set-aside 62 percent of surplus tax revenues for saving Social Security.

Of course the question is: What do we do with the rest? Bill Clinton says that we should save Social Security and then spend the rest, the remaining 38 percent of surplus tax revenues, on new government programs, on big government. I disagree and say that we should save Social Security and we should raise take-home pay by lowering taxes.

The question is pretty simple before this House: Whose money is it to start with?

You know, if you think about it, if you go to a restaurant, and you buy a meal, and you find that you overpay, the restaurant will usually say, wait a second, you have given us too much, you should take this back. You have paid too much, and that extra money they should get back to you. Well, it is clear today that this government is collecting too much, and it is time to give that too much back in a tax cut.

There is a pretty simple question again. It is do we want to save Social Security and spend the rest of the surplus tax revenue, or do we save Social Security and give it back for working families, give it back by eliminating the marriage tax penalty and rewarding retirement savings?

You know the Tax Foundation tells us that today's tax burden is too high. The average family in Illinois sends 40 percent of its annual income, its earnings, its salary, to government at local, State and Federal levels. Forty percent of your income goes to government at one level or another. And I also want to note that the IRS tells us that since Bill Clinton was elected President in 1992, taxes collected by the Federal Government from individuals and from families have gone up 63 percent. The tax burden on America's families is the highest ever.

My colleagues, we can save Social Security, we can eliminate the marriage tax penalty. Let us save Social Security, and let us lower taxes for working Americans.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 99, TEMPORARY EXTENSION OF FEDERAL AVIATION ADMINISTRATION PROGRAMS

Mr. DREIER (during the special order of Mr. PAUL), from the Committee on Rules, submitted a privileged report (Rept. No. 106–4) on the resolution (H. Res. 31) providing for consideration of the bill (H.R. 99) to amend title 49, United States Code, to extend Federal Aviation Administration programs through September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONGRESS RELINQUISHING THE POWER TO WAGE WAR

The SPEAKER pro tempore (Mrs. BIGGERT). Under the Speaker's announced policy of January 6, 1999, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes as the designee of the majority leader.

Mr. PAUL. Madam Speaker, I have great concern for the future of the American Republic. Many Americans argue that we are now enjoying the best of times. Others concern themselves with problems less visible but smouldering beneath the surface. Those who are content point out that the economy is booming, we are not at war, crime rates are down, and the majority of Americans feel safe and secure in their homes and community. Others point out that economic booms, when brought about artificially with credit creation, are destined to end with a bang. The absence of overt war does not negate the fact that tens of thousands of American troops are scattered around the world in the middle of ancient fights not likely to be settled by our meddling and may escalate at any time.

Madam Speaker, the relinquishing of the power to wage war by Congress to the President, although ignored or endorsed by many, raises serious questions regarding the status of our Republic, and although many Americans are content with their routine activities, much evidence demonstrating that our personal privacy is routinely being threatened. Crime still remains a concern for many with questions raised as to whether or not violent crimes are accurately reported, and ironically there are many Americans who now

fear that dreaded Federal bureaucrat and possible illegal seizure of their property by the government more than they do the thugs in the street. I remain concerned about the economy, our militarism and internationalism, and the systemic invasion of our privacy in every aspect of our lives by nameless bureaucrats. I am convinced that if these problems are not dealt with. The republic for for which we have all sworn an oath to protect will not survive.

Madam Speaker, all Members should be concerned about the war powers now illegitimately assumed by the President, the financial bubble that will play havoc with the standard of living of most Americans when it bursts and the systemic undermining of our privacy even in this age of relative contentment.

The Founders of this great Nation abhorred tyranny and loved liberty. The power of the king to wage war, tax and abuse the personal rights of the American colonists drove them to rebel, win a revolution and codify their convictions in a new Constitution. It was serious business, and every issue was thoroughly debated and explained most prominently in the Federalist Papers. Debate about trade among the States and with other countries, sound money and the constraints on presidential power occupied a major portion of their time.

Initially the Articles of Confederation spoke clearly of just who would be responsible for waging war. It gave the constitutional Congress, quote, sole and exclusive right and power of determining on peace and war. In the debate at the Constitutional Convention it was clear that this position was maintained as the power of the British king was not to be, quote, a proper guide in defining executive war powers, close quote, for the newly formed republic. The result was a Constitution that gave Congress the power to declare war, issue letters of mark and reprisal, call up the militia, raise and train an Army and Navy and regulate foreign commerce, a tool often used in international conflict. The President was also required to share power with the Senate in ratifying treaties and appointing ambassadors.

Let there be no doubt. The President, according to the Constitution, has no power to wage war. However it has been recognized throughout our history that certain circumstances might require the President to act in self-defense if Congress is not readily available to act if the United States is attacked.

Recent flagrant abuse of the power to wage war by modern-day Presidents, including the most recent episodes in Iraq, Afghanistan and Sudan, should prompt this Congress to revisit this entire issue of war powers. Certain abuses of power are obviously more injurious than others. The use of the FBI and the IRS to illegally monitor and intimidate citizens is a power that should be easy to condemn, and yet it continues to thrive. The illegal and immoral power to create money out of thin air for the purpose of financing a welfare-warfare state serving certain financial interests while causing the harmful business cycle is a process that most in Washington do not understand nor care about. These are ominous powers of great magnitude that were never meant to be permitted under the Constitution.

But as bad as these abuses are, the power of a single person, the President, to wage war is the most egregious of all presidential powers, and Congress deserves the blame for allowing such power to gravitate into the hands of the President. The fact that nary a complaint was made in Congress for the recent aggressive military behavior of our President in Iraq for reasons that had nothing to do with national security should not be ignored. Instead, Congress unwisely and quickly rubber stamped this military operation. We should analyze this closely and decide whether or not we in the Congress should promote a war powers policy that conforms to the Constitution or continue to allow our Presidents ever greater leverage to wage war any time, any place and for any reason.

This policy of allowing our Presidents unlimited authority to wage war has been in place since the end of World War II, although abuse to a lesser degree has occurred since the beginning of the 20th century. Specifically, since joining the United Nations congressional authority to determine when and if our troops will fight abroad has been seriously undermined. From Truman's sending of troops to Korea to Bush's Persian Gulf War, we have seen big wars fought, tens of thousands killed, hundreds of thousands wounded and hundreds of billions of dollars wasted. U.S. security, never at risk, has been needlessly jeopardized by the so-called peacekeeping missions and police exercises while constitutional law has been seriously and dangerously undermined.

Madam Speaker, something must be done. The cost of this policy has been great in terms of life and dollars and our constitutional system of law. Nearly 100,000 deaths occurred in the Vietnam and Korean wars, and if we continue to allow our Presidents to casually pursue war for the flimsiest of reasons, we may well be looking at another major conflict somewhere in the world in which we have no business or need to be involved.

The correction of this problem requires a concerted effort on the part of Congress to reclaim and reassert its responsibility under the Constitution with respect to war powers, and efforts were made to do exactly that after Vietnam in 1973 and more recently in 1995. Neither efforts were successful, and ironically the President emerged with more power, with each effort being undermined by supporters in the Congress of presidential authoritarianism and internationalism. Few objected to the Truman-ordered U.N. police actions in Korea in the 1950s, but they should have. This illegal and major war encouraged all subsequent Presidents to assume greater authority to wage war than was ever intended by the Constitution or assumed by all the Presidents prior to World War II. It is precisely because of the way we have entered in each military action since the 1940s without declaring war that their purposes have been vague and victory elusive, yet pain, suffering and long term negative consequences have resulted. The road on which this country embarked 50 years ago has led to the sacrifice of a lot of congressional prerogatives and citizen control over the excessive power that have fallen into the hands of Presidents quite willing to abuse this authority. No one person, if our society is to remain free, should be allowed to provoke war with aggressive military acts. Congress and the people are obligated to rein in this flagrant abuse of presidential power.

Not only did we suffer greatly from the unwise and illegal Korean and Vietnam wars, Congress has allowed a continuous abuse of military power by our Presidents in an ever increasing frequency. We have seen troops needlessly die in Lebanon, Grenada, invaded for questionable reasons, Libya bombed with innocent civilians killed, persistent naval operations in the Persian Gulf, Panama invaded, Iraq bombed on numerous occasions, Somalia invaded, a secret and illegal war fought in Nicaragua, Haiti occupied, and troops stationed in Bosnia and now possibly soon in Kosovo.

□ 1800

Even the Congressional permission to pursue the Persian Gulf War was an afterthought, since President Bush emphatically stated that it was unnecessary, as he received his authority from the United Nations.

Without an actual declaration of war and support from the American people, victory is unachievable. This has been the case with the ongoing war against Iraq. Without a legitimate concern for our national security, the willingness to declare war and achieve victory is difficult. The war effort becomes narrowly political, serving special interests, and not fought for the defense of the United States against a serious military threat. If we can win a Cold War against the Soviets, we hardly need a hot war with a third world nation, unable to defend itself, Iraq.

Great concern in the 1960s over the excessive presidential war powers was

expressed by the American people, and, thus, the interests of the U.S. Congress after Vietnam in the early 1970's. The War Powers Resolution of 1973 resulted, but due to shrewd manipulation and political chicanery, the effort resulted in giving the President more authority, allowing him to wage war for 60 to 90 days without Congressional approval.

Prior to the Korean War, when the Constitution and historic precedent had been followed, the President could not and for the most part did not engage in any military effort not directly defensive in nature without explicit Congressional approval.

The result of the passage of the War Powers Resolution was exactly opposite to its authors' intentions. More power is granted to the president to send troops hither and yon, with the various Presidents sometimes reporting to the Congress and sometimes not. But Congress has unwisely and rarely objected, and has not in recent years demanded its proper role in decisions of war, nor hesitated to continue the funding that the various presidents have demanded.

Approval of presidential-directed aggression, disguised as ''support for the troops,'' comes routinely, and if any member does not obediently endorse every action a President might take, for whatever reason, it is implied the member lacks patriotism and wisdom. It is amazing how we have drifted from the responsibility of the Founders, imagine, the Congress and the people would jealously protect.

It is too often and foolishly argued that we must permit great flexibility for the President to retaliate when American troops are in danger. But this is only after the President has invaded and placed our troops in harm's way.

By what stretch of the imagination can one say that these military actions can be considered defensive in nature? The best way we can promote support for our troops is employ them in a manner that is the least provocative. They must be given a mission confined to defending the United States, not policing the world or taking orders from the United Nations or serving the special commercial interests of U.S. corporations around the world.

The 1995 effort to repeal the War Powers Resolution failed because it was not a clean repeal, but one still requiring consultation and reporting to the Congress. This led to enough confusion to prevent its passage.

What is needed is a return to the Constitution as a strict guide as to who has the authority to exert the war powers and, as has been scrupulously followed in the 19th century by essentially all political parties and presidents.

The effort to curtail presidential powers while requiring consultation and reporting to the Congress implies that that is all that is needed to avoid the strict rules laid out by the Constitution.

It was admitted in the House debate by the House leadership that the repeal actually gave the President more power to use troops overseas and therefore urged passage of the measure. This accurate assessment prompted antiwar pro-peace Republicans and Democrats to narrowly reject the proposal.

The message here is that clarification of the War Powers Resolution and a return to constitutional law are the only way presidential authority to wage war can be curtailed. If our presidents do not act accordingly, Congress must quickly and forcefully meet its responsibility by denying funds for foreign intervention and aggression initiated by the President.

The basic problem here is that there are still too many Members of Congress who endorse a presidency armed with the authority of a tyrant to wage war. But if this assumption of power by the President with Congress' approval is not reversed, the republic cannot be maintained.

Putting the power in the hands of a single person, the president, to wage war, is dangerous and costly, and it destroys the notion that the people through their Congressional representatives decide when military action should start and when war should take place.

The sacrifice of this constitutional principle, guarded diligently for 175 years and now severely eroded in the past 50, must be restored if we hope to protect our liberties and avoid yet another unnecessary and, heaven-forbid, major world conflict, and merely changing the law will not be enough to guarantee that future presidents will not violate their trust.

A moral commitment to the principle of limited presidential war powers in the spirit of the republic is required. Even with the clearest constitutional restriction on the President to wage undeclared wars, buffered by precise legislation, if the sentiment of the Congress, the courts and the people or the President is to ignore these restraints, they will.

The best of all situations is when the spirit of the republic is one and the same, as the law itself, and honorable men are in positions of responsibility to carry out the law. Even though we cannot guarantee the future Congress' or our president's moral commitment to the principles of liberty by changing the law, we still must make every effort possible to make the law and the Constitution as morally sound as possible.

Our responsibility here in the Congress is to protect liberty and do our best to ensure peace and trade with all who do not aggress against us. But peace is more easily achieved when we reject the notion that some Americans must subsidize foreign nations for a benefit that is intended to flow back to a select few Americans. Maintaining an empire or striving for a world government while allowing excessive war powers to accrue to an imperial president will surely lead to needless military conflicts, loss of life and liberty, and a complete undermining of our constitutional republic.

On another issue, privacy, privacy is the essence of liberty. Without it, individual rights cannot exist. Privacy and property are interlocked and if both are protected, little would need to be said about other civil liberties. If one's home, church or business is one's castle, and the privacy of one's person, papers and effects are rigidly protected, all rights desired in a free society will be guaranteed. Diligently protecting the right to privacy and property guarantees religious, journalistic and political experience, as well as a free market economy and sound money. Once a careless attitude emerges with respect to privacy, all other rights are jeopardized.

Today we find a systematic and pervasive attack on the privacy of all American citizens, which undermines the principle of private property ownership. Understanding why the attack on privacy is rapidly expanding and recognizing a need to reverse this trend is necessary if our republic is to survive.

Lack of respect for the privacy and property of the American colonists by the British throne was a powerful motivation for the American revolution and resulted in the strongly worded and crystal clear Fourth Amendment.

Emphatically, searches and seizures are prohibited except when warrants are issued upon probable cause supported by oath or affirmation, with details listed given as to place, person and things to be seized.

This is a far cry from the routine seizure by the Federal Government and forfeiture of property which occurs today. Our papers are no longer considered personal and their confidentiality has been eliminated. Private property is searched by Federal agents without announcement, and huge fines are levied when Federal regulations appear to have been violated, and proof of innocence is demanded if one chooses to fight the abuse in court and avoid the heavy fines.

Eighty thousand armed Federal bureaucrats and law enforcement officers now patrol our land and business establishments. Suspicious religious groups are monitored and sometimes destroyed without due process of law, with little or no evidence of wrongdoing. Local and state jurisdiction is rarely recognized once the feds move in.

Today, it is routine for government to illegally seize property, requiring the victims to prove their innocence in

order to retrieve their property, and many times this fails due to the expense and legal roadblocks placed in the victim's way.

Although the voters in the 1990's have cried out for a change in direction and demanded a smaller, less intrusive government, the attack on privacy by the Congress, the administration and the courts has, nevertheless, accelerated. Plans have now been laid or implemented for a national I.D. card, a national medical data bank, a data bank on individual MDs, deadbeat dads, intrusive programs monitoring our every financial transaction, while the Social Security number has been established as the universal identifier.

The Social Security number is now commonly used for just about everything, getting a birth certificate, buying a car, seeing an MD, getting a job, opening up a bank account, getting a driver's license, making many routine purchases, and, of course, a death certificate. Cradle-to-the-grave government surveillance is here and daily getting more pervasive.

The attack on privacy is not a coincidence or an event that arises for no explainable reason. It results from a philosophy that justifies it and requires it. A government not dedicated to preserving liberty must by its very nature allow this precious right to erode.

A political system designed as ours was to protect life and liberty and property would vigorously protect all citizens' rights to privacy, and this cannot occur unless the property and the fruits of one's labor, of every citizen, is protected from confiscation by thugs in the street as well as in our legislative bodies.

The promoters of government instruction into our privacy characteristically use worn out cliches to defend what they do. The most common argument is that if you have nothing to hide, why worry about it?

This is ludicrous. We have nothing to hide in our homes or our bedrooms, but that is no reason why big brother should be permitted to monitor us with a surveillance camera.

The same can be argued about our churches, our businesses or any peaceful action we may pursue. Our personal activities are no one else's business. We may have nothing to hide, but, if we are not careful, we have plenty to lose, our right to be left alone.

Others argue that to operate government programs efficiently and without fraud, close monitoring is best achieved with an universal identifier, the Social Security number.

Efficiency and protection from fraud may well be enhanced with the use of a universal identifier, but this contradicts the whole notion of the proper role for government in a free society.

Most of the Federal programs are unconstitutional to begin with, so eliminating waste and fraud and promoting efficiency for a program that requires a violation of someone else's rights should not be a high priority of the Congress. But the temptation is too great, even for those who question the wisdom of the government programs, and compromise of the Fourth Amendment becomes acceptable.

I have never heard of a proposal to promote the national I.D. card or anything short of this for any reasons other than a good purpose. Essentially all those who vote to allow the continual erosion of our privacy and other constitutional rights never do it because they consciously support a tyrannical government; it is always done with good intentions.

Believe me, most of the evil done by elected congresses and parliaments throughout all of history has been justified by good intentions. But that does not change anything. It just makes it harder to stop.

Therefore, we cannot ignore the motivations behind those who promote the welfare state. Bad ideas, if implemented, whether promoted by men of bad intentions or good, will result in bad results.

Well-intentioned people, men of goodwill, should, however, respond to a persuasive argument. Ignorance is the enemy of sound policy, every bit as much as political corruption.

Various management problems in support for welfarism motivates those who argue for only a little sacrifice of freedom to achieve a greater good for society. Each effort to undermine our privacy is easily justified.

The national I.D. card is needed, it is said, to detect illegal aliens, yet all Americans will need it to open up a bank account, get a job, fly on an airplane, see a doctor, go to school or drive a car.

□ 1815

Financial privacy must be sacrificed, it is argued, in order to catch money launderers, drug dealers, mobsters and tax cheats. Privacy for privacy's sake, unfortunately for many, is a nonissue.

The recent know-your-customer plan was designed by Richard Small, Assistant Director of the Division of Banking Supervision Regulation at the Federal Reserve. He is not happy with all of the complaints that he has received regarding this proposal. His program will require that every bank keep a detailed profile on every customer, as to how much is deposited, where it comes from, and when and how the money is spent. If there is any deviation from the profile on record, the bank is required to report this to a half dozen government agencies, which will require the customer to do a lot of explaining. This program will catch few drug dealers, but will surely infringe on the liberty of every law-abiding citizen.

After thousands of complaints were registered at the Federal Reserve and the other agencies, Richard Small was quoted as saying that in essence, the complaints were coming from these strange people who are overly concerned about the Constitution and privacy. Legal justification for the program, Small explained, comes from a court case that states that our personal papers, when in the hands of a third party like a bank, do not qualify for protection under the Fourth Amendment.

He is accurate in quoting the court case, but that does not make it right. Courts do not have the authority to repeal a fundamental right as important as that guaranteed by the Fourth Amendment. Under this reasoning, when applied to our medical records, all confidentiality between the doctor and the patient is destroyed.

For this reason, the proposal for a national medical data bank to assure us there will be no waste or fraud, that doctors are practicing good medicine, that the exchange of medical records between the HMOs will be facilitated and statistical research is made easier, should be strenuously opposed. The more the government is involved in medicine or anything, the greater the odds that personal privacy will be abused.

The IRS and the DEA, with powers illegally given them by the Congress and the courts, have prompted a flood of seizures and forfeitures in the last several decades without due process and frequently without search warrants or probable cause. Victims then are required to prove themselves innocent to recover the goods seized.

This flagrant and systematic abuse of privacy may well turn out to be a blessing in disguise. Like the public schools, it may provide the incentive for Americans finally to do something about the system.

The disaster state of the public school system has prompted millions of parents to provide private or home schooling for their children. The worse the government schools get, the more the people resort to a private option, even without tax relief from the politicians. This is only possible as long as some remnant of our freedom remains, and these options are permitted. We cannot become complacent.

Hopefully, a similar reaction will occur in the area of privacy, but overcoming the intrusiveness of government into our privacy in nearly every aspect of our lives will be difficult. Home schooling is a relatively simple solution compared to avoiding the roving and snooping high of big brother. Solving the privacy problem requires an awakening by the American people with a strong message being sent to the U.S. Congress that we have had enough.

Eventually, stopping this systematic intrusion into our privacy will require challenging the entire welfare state.

Socialism and welfarism self-destruct after a prolonged period of time due to their natural inefficiencies and national bankruptcy. As the system ages, more and more efforts are made to delay its demise by borrowing, inflating and coercion. The degree of violation of our privacy is a measurement of the coercion thought necessary by the proponents of authoritarianism to continue the process.

The privacy issue invites a serious discussion between those who seriously believe welfare redistribution helps the poor and does not violate anyone's rights, and others who promote policies that undermine privacy in an effort to reduce fraud and waste to make the programs work efficiently, even if they disagree with the programs themselves. This opportunity will actually increase as it becomes more evident that our country is poorer than most believe and sustaining the welfare state at current levels will prove impossible. An ever-increasing invasion of our privacy will force everyone eventually to reconsider the efficiency of the welfare state, if the welfare of the people is getting worse and their privacy invaded.

Our job is to make a principled, moral, constitutional and practical case for respecting everyone's privacy, even if it is suspected some private activities, barring violence, do not conform to our own private moral standards. We could go a long way to guaranteeing privacy for all Americans if we, as Members of Congress, would take our oath of office more seriously and do exactly what the Constitution says.

THE FINANCIAL BUBBLE

On a third item, the financial bubble, a huge financial bubble engulfs the world financial markets. This bubble has been developing for a long time but has gotten much larger the last couple of years. Understanding this issue is critical to the economic security of all Americans that we all strive to protect.

Credit expansion is the root cause of all financial bubbles. Fiat monetary systems inevitably cause unsustainable economic expansion that results in a recession and/or depression. A correction always results, with the degree and duration being determined by government fiscal policy and central bank monetary policy. If wages and prices are not allowed to adjust and the correction is thwarted by invigorated monetary expansion, new and sustained economic growth will be delayed or prevented. Financial dislocation caused by central banks in the various countries will differ from one to another due to political perceptions, military considerations, and reserve currency status.

The U.S.'s ability to inflate has been dramatically enhanced by other countries' willingness to absorb our inflated currency, our dollar being the reserve currency of the world. Foreign central banks now hold in reserve over $600 billion, an amount significantly greater than that even held by our own Federal Reserve System. Our economic and military power gives us additional license to inflate our currency, thus delaying the inevitable correction inherent in a paper money system. But this only allows for a larger bubble to develop, further jeopardizing our future economy.

Because of the significance of the dollar to the world economy, our inflation and the dollar-generated bubble is much more dangerous than single currency inflation such as Mexico, Brazil, South Korea, Japan and others. The significance of these inflations, however, cannot be dismissed.

The Federal Reserve Board Chairman Alan Greenspan, when the Dow was at approximately 6,500, cautioned the Nation about irrational exuberance and for a day or two the markets were subdued. But while openly worrying about an unsustained stock market boom, he nevertheless accelerated the very credit expansion that threatened the market and created the irrational exuberance.

From December 1996, at the time that Greenspan made this statement, to December 1998, the money supply soared. Over $1 trillion of new money, as measured by M–3, was created by the Federal Reserve. MZM, another monetary measurement, is currently expanding at a rate greater than 20 percent. This generous dose of credit has sparked even more irrational exuberance, which has taken the Dow to over 9,000 for a 30 percent increase in just two years.

When the foreign registered corporation long term capital management was threatened in 1998, that is, the market demanding a logical correction to its own exuberance with its massive $1 trillion speculative investment in the derivatives market, Greenspan and company quickly came to its rescue with an even greater acceleration of credit expansion.

The pain of market discipline is never acceptable when compared to the pleasure of postponing hard decisions and enjoying for a while longer the short-term benefits gained by keeping the financial bubble inflated. But the day is fast approaching when the markets and Congress will have to deal with the attack on the dollar, once it is realized that exporting our inflation is not without limits.

A hint of what can happen when the world gets tired of holding too many of our dollars was experienced in the dollar crisis of 1979 and 1980, and we saw at that time interest rates over 21 percent. There is abundant evidence around warning us of the impending danger. According to Federal Reserve statistics, household debt reached 81 percent of personal income in the second quarter of 1998. For 20 years prior to 1985, household debt averaged around 50 percent of personal income. Between 1985 and 1998, due to generous Federal Reserve credit, competent American consumers increased this to 81 percent and now it is even higher. At the same time, our savings rate has dropped to zero percent.

The conviction that stock prices will continue to provide extra cash and confidence in the economy has fueled wild consumer spending and personal debt expansion. The home refinance index between 1997 and 1999 increased 700 percent. Secondary mortgages are now offered up to 120 percent of a home's equity, with many of these funds finding their way into the stock market. Generous credit and quasi-government agencies make these mortgage markets robust, but a correction will come when it is realized that the builders and the lenders have gotten ahead of themselves.

The willingness of foreign entities to take and hold our dollars has generated a huge current account deficit for the United States. It is expected a $200 billion annual deficit that we are running now will accelerate to over $300 billion in 1999, unless the financial bubble bursts.

This trend has made us the greatest international debtor in the world, with a negative net international asset position of more than $1.7 trillion. A significantly weakened dollar will play havoc when this bill comes due and foreign debt holders demand payment.

Contributing to the bubble and the dollar strength has been the fact that even though the dollar has problems, other currencies are even weaker and thus make the dollar look strong in comparison. Budgetary figures are frequently stated in a falsely optimistic manner. In 1969 when there was a surplus of approximately $3 billion, the national debt went down approximately the same amount. In 1998, however, with a so-called surplus of $70 billion, the national debt went up $113 billion, and instead of the surpluses which are not really surpluses running forever, the deficits will rise with a weaker economy and current congressional plans to increase welfare and warfare spending.

Government propaganda promotes the false notion that inflation is no longer a problem. Nothing could be further from the truth. The dangerous financial bubble, a result of the Federal Reserve's deliberate policy of inflation and the Fed's argument that there is no inflation according to government-concocted CPI figures, is made to justify a continuous policy of monetary inflation because they are terrified of the consequence of deflation. The Federal Reserve may sincerely believe maintaining the status quo, preventing price inflation and delaying deflation is possible, but it really is not.

The most astute money manager cannot balance inflation against deflation as long as there is continued credit expansion. The system inevitably collapses, as it finally did in Japan in the 1990s. Even the lack of the CPI inflation as reported by the Federal Reserve is suspect.

A CPI of all consumer items measured by the private source shows approximately a 400 percent increase in prices since 1970. Most Americans realize their dollars are buying less each year and no chance exists for the purchasing power of the dollar to go up. Just because prices of TVs and computers may go down, the cost of medicine, food, stocks and entertainment, and of course, government, certainly can rise rapidly.

One characteristic of an economy that suffers from a constantly debased currency is sluggish or diminished growth in real income. In spite of our so-called great economic recovery, two-thirds of U.S. workers for the past 25 years have had stagnant or falling wages. The demands for poverty relief from government agencies continue to increase. Last year alone, 678,000 jobs were lost due to downsizing. The new service sector jobs found by many of those laid off are rarely as good paying.

In the last 1½ years, various countries have been hit hard with deflationary pressures. In spite of the IMF-led bailouts of nearly $200 billion, the danger of a worldwide depression remains. Many countries, even with the extra dollars sent to them courtesy of the American taxpayer, suffer devaluation and significant price inflation in their home currency.

□ 1830

But this, although helpful to banks lending overseas, has clearly failed, has cost a lot of money, and prevents the true market correction of liquidation of debt that must eventually come. The longer the delay and the more dollars used, the greater the threat to the dollar in the future.

There is good reason why we in the Congress should be concerned. A dollar crisis is an economic crisis that will threaten the standard of living of many Americans. Economic crises frequently lead to political crises, as is occurring in Indonesia.

Congress is responsible for the value of the dollar. Yet, as we have done too often in other areas, we have passed this responsibility on to someone else; in this case, to the Federal Reserve.

The Constitution is clear that the Congress has responsibility for guaranteeing the value of the currency, and no authority has ever been given to create a central bank. Creating money out of thin air is counterfeiting, even when done by a bank that the Congress tolerates.

It is easy to see why Congress, with its own insatiable desire to spend money and perpetuate a welfare and military state, cooperates with such a system. A national debt of $5.6 trillion could not have developed without a willing Federal Reserve to monetize this debt and provide for artificially low interest rates. But when the dollar crisis hits and it is clearly evident that the short-term benefits were not worth it, we will be forced to consider monetary reform.

Reconsidering the directives given us in the Constitution with regard to money would go a long way towards developing a sound monetary system that best protects our economy and guides us away from casually going to war. Monetary reform is something that we ought to be thinking about now.

Mr. Speaker, let me summarize. We in the Congress, along with the President, will soon have to make a decision that will determine whether or not the American republic survives. Allowing our presidents to wage war without the consent of Congress, ignoring the obvious significance of fiat money to a healthy economy, and perpetuating pervasive government intrusion into the privacy of all Americans will surely end the American experiment with maximum liberty for all unless we reverse this trend.

Too often the American people have chosen security over liberty. Allowing the President a little authority to deal with world problems under a U.N. banner has been easier than reversing the trend of the past 50 years. Accepting the financial bubble when on the short run, it helps everyone's portfolio, helps to finance government spending, is easy, even if it only delays the day of reckoning when the bills come due, as they already have in so many other countries in the world.

Giving up a little privacy seems a small price to pay for the many who receive the generous benefits of big government, but when the prosperity comes to an end and the right to privacy has been squandered, it will be most difficult to restore the principles of a free society.

Materialistic concerns and complacency toward the principles of liberty will undo much of what has been built in America over the past 200 years, unless there is a renewed belief that our God-given rights to life and liberty are worth working for. False economic security is no substitute for productive effort in a free society, where the citizens are self-reliant, generous, and nonviolent. Insisting on a limited government designed to protect life and property, as is found in a republic, must be our legislative goal.

A RESPONSE TO THE PRESIDENT'S PRESENTATION OF THE DEFENSE BUDGET TO CONGRESS

The SPEAKER pro tempore (Mr. SHIMKUS). Under the Speaker's announced policy of January 6, 1999, the gentleman from California (Mr. HUNTER) is recognized for 60 minutes.

Mr. HUNTER. Mr. Speaker, I rise today to respond to the President's presentation of his defense budget to the U.S. Congress. We listened to Secretary of Defense Cohen today as he made this presentation to us, and explained to us that we are in fact, according to him, increasing defense for the first time in many years.

I think it is important to respond to Secretary Cohen and to the President, because otherwise I think the American people will be somewhat misled with respect to his presentation.

First, we are not, I repeat, not, increasing the defense budget of the Clinton administration. The Clinton administration has cut defense since they took over in 1992 by $102 billion below what President Bush had planned for our country when he sat down with Colin Powell and other defense leaders. So he put together a blueprint for where he thought defense should go, and President Clinton, when he took over, decided to cut that blueprint by $102 billion.

So now he is coming up slightly in this year's budget with a $12 billion increase. I say it is $12 billion, even though they averaged a $112 billion increase, because the last half or two-thirds of that increase is not during his presidency. That means that he is giving us a recommendation that defense be increased by some other president some other time.

That means some president who is elected, who is out there in the year 2004, 2005, is, according to the recommendation of President Clinton, going to increase defense, but I do not think the American people nor the men and women who wear the uniform of the United States can count on that increase. All we can count on President Clinton doing is what he is capable of doing and has the legitimate right to do under his presidency. So let us focus on that.

If we look at Ronald Reagan's defense budgets back in 1986 and compare them with today's, our defense budget today is well over $100 billion less on an annual basis than it was in 1986. It is way under what it was in 1986.

Let us look at what has happened as a result of these defense cuts. First, Mr. Speaker, let me speak a little bit about what is happening with respect to mission capable rates. The mission capable rates are the rates at which your aircraft can fly out, fly from their carrier or from their home base, do their mission, and return to the United States or return to their home base.

That rate in 1991 was 83 percent for the Air Force. It is now down to 74 percent. It was 69 percent for the Navy. It is now down to 61 percent. For the Marine Corps it was 77 percent and it is now down to 61 percent.

That means that under the Clinton administration, the ability of our aircraft, for some reason, whether it is lack of pilot training, lack of pilots, lack of spare parts, lack of fuel, our aircraft are not able to rise off their carrier deck or rise off of their air base, go out and do their mission, and return home like they were just a few years ago. That is a very serious problem with our ability to project military power.

Mr. Speaker, let me talk about our equipment shortages a little bit. I am the chairman of the Subcommittee on Military Procurement. I looked at the President's military budget for this year. That budget calls for a six-ship building program this year.

Now, Navy ships have a life of 30 to 35 years, so that means that the President's budget is building toward a fleet of only 200 ships. When he came in we had 546 naval vessels. Now we are down to about 325. If we keep building at this low rate, we are going to be down to 200 ships in our Navy.

With respect to ammunition, we are $1,600,000,000 short in basic ammunition for the U.S. Army. We are $193 million short in ammunition for the Marine Corps. With respect to equipment our CH46s are 40 years old, our AAVs average about 26 years old. We have many, many pieces of equipment, right down to Jeeps and trucks and tanks, that are extremely old. Basically, we are living on what we had during Ronald Reagan's presidency, and we haven't replaced that equipment.

Now, the interesting thing is that most Americans have looked at the old pictures on television of our air strikes during Desert Storm, and they have the impression that we are able to wage a war like we waged in Desert Storm just a few years ago, but we are not able to do that.

The reason we are not able to do that is because we do not have the equipment and the force structure that we had just a couple of years ago. We have cut our military almost in half. That is, we had 18 army divisions in 1992. We are now down to 10. We had 546 ships during Desert Storm. We are now down to about 325. We have 346 on this poster. They have actually retired more ships since we made the poster. Active airwings were down from 24 airwings to only 13. If we include reserve airwings, we are down from 36 to only 20.

What we have done under this administration is we have cut America's force structure of our Armed Forces almost in half. The tragedy is, Mr. Speaker, that while we have cut it in half, the half that we have left is not ready. It is not ready to fight.

Mr. Speaker, let me get to another very critical area. We are 18,000 sailors short right now in the Navy. That means that the few sailors that we have left, and this is manning a very, very reduced fleet, the few sailors that we have left now have to shift back and forth between ships.

It also means that when a sailor comes home to be with his family, he may be called the next week and told, ''Instead of getting that 1- or 2- or 3-month reprieve and being able to stay home with your wife and family, you are going to have to head out again, because we don't have enough people to man all of our ships. You are going to have to go back out and join the fleet again, and go back into these strenuous operations without seeing your family.''

That is called personnel tempo. That is the amount of time—basically it reflects the amount of time that a soldier or sailor or airman or marine spends away from his family.

That means that, for example, with the Marine Corps, we are seeing a higher personnel tempo, marines away from their families more than they have ever been since World War II. That is important to us as a U.S. Congress that is in charge of raising the Army and the Navy and the marines and maintaining it, because we have an all-volunteer service. If people will not join, we cannot draft them, so we have to have a service that is attractive enough to get people to join.

One aspect of that attractiveness has to be quality of life. Quality of life can mean a lot of things. It can mean having a nice home for your family if you live on base, if you are an enlisted person, for example, or an officer. It can mean having a good barracks, if you are a single enlisted person, or a good bachelor officer's quarters, if you are an officer. It can mean having enough of a housing allowance to live in a fairly nice place in the community that your base is located in. It can mean having decent pay. We will talk about that in a minute. But it also means having some time with your family. That means not being constantly deployed.

The interesting thing about the Clinton administration is they have deployed their people more often than any other president. While they have deployed these people more often than any other president, they have cut the number of people that we have; that is, the force structure: the number of ships, the number of sailors, the number of army divisions, the number of marines. They have cut that force structure so much that we have this thin line of American defenders literally running around the world, running themselves ragged.

What does that mean? It means that people are not reenlisting. I think in our marine aviators, we have 92 percent of the pilots not reenlisting, which is remarkable for us, because they have always reenlisted in record numbers; in much higher numbers, up in the forties. It means that we are the 18,000 sailors short that I spoke of. It means that we are going to be 700 pilots short in the Air Force this year.

It is very, very difficult to keep these people in the service, and it is very difficult to build people in these technical skills if you do not have a lot of time and a lot of money. It costs as much as $1 million, $2 million, to build some of the technical skills to give these folks all the schools they need, and once that person walks out the door, he takes with him that enormous investment.

Then our other problem is once a person walks out the door, we now have the problem of going out and recruiting another person to take his or her place. That person is looking at a domestic job market which is quite good right now; looking, for example, if they are a pilot, at the prospect of going into the airlines; if they are a mechanic, looking into going into an automotive industry; if they are an electronics technician, looking at going into one of those areas on the outside in the civilian sector. It is more and more difficult to bring people into the military.

□ 1845

Once again, this Congress does not want to have to be faced with the prospect of having to draft people. That means we are going to have to treat our people better. That means we are going to have to slow down OPTEMPO and Personnel Tempo, not stretch our people so thin, not run them so ragged, pay them better money. That means get them up in a much higher bracket so that they cut into what is now a 13 percent pay gap between people who are in the service and people who are in the private sector.

When Ronald Reagan came into office in 1981, we had a 12.6 percent pay gap, and we closed that pay gap in a very short period of time. Well, today we have a 13 percent pay gap. The Clinton administration is offering a 4.4 percent pay raise, but that is not nearly enough to pay for that major gap that has people leaving in droves, and at the same time bring up the modernization, the spare parts, ammunition, and all the other things that we need to make our military work.

Mr. Speaker, let me go to one other aspect of national security that I think is very important. The President now realizes that we have indeed a problem with missile defense. We know and we knew ever since those scud missiles hit our barracks in Saudi Arabia that we had a problem with not being able to stop those missiles coming in. Those are very slow missiles. Those were the Model Ts of ballistic missiles. Today, many years later, we still have very little capability in terms of stopping missiles.

There are several classes of missiles. We hear about the intercontinental ballistic missiles. Those are the missiles that can be launched from Russia

or China and presumably hit a city in the United States. It is a long-range missile that goes very fast.

One also has short-range missiles, and those missiles go a little slower. But what they can hit are our troop concentrations in Korea or Saudi Arabia or other places.

We have to build and maintain a missile defense. So far, we do not have that defense. This budget, Mr. Speaker, is not going to allow us to proceed fast enough to build that missile defense before our adversaries build the offensive missiles that can overwhelm that defense.

When I talk about that, what I am saying is we need to look at the North Korean missile that was just launched over the Sea of Japan. We realize now it is a two-stage missile, that it could hit some parts of the United States if it took in its full flight, built by North Korea. We know that China is moving ahead on its strategic weapons program.

We know that we have to place our troops in concentrations all over the world just like we had troops in Saudi Arabia. We had troops in Kuwait. We have troops right now in South Korea. We have to be able to maintain those troops.

If missiles can be launched from long range to hit those troops with concentrations of chemical or biological weapons, then it is going to be very, very difficult to convince America's moms and dads that we should be allowed to keep their youngsters in the military, move them into foreign theaters which are very, very dangerous, and expect them to stay in the uniform.

So it is going to be very, very difficult to recruit people unless we have a way to protect them in foreign theaters. That means we have to have missile defense. This administration, in slashing the defense budget dramatically, has not put enough money into missile defense.

So Mr. Speaker, this President has said that he is increasing defense dramatically. Let us put it in perspective. Most of the $112 billion that he has proposed to increase is supposed to be done by some other president at some other time.

It is like handing a blueprint of a house to our neighbor and saying, ''After I am gone from this neighborhood, I want you to build this house on that lot over there.'' And our neighbor says, ''Do you have any legal right to make me build it?'' And you say ''No, but it is my recommendation that you build this house over here after I am gone.''

The President is recommending to some president who has not even been named yet, has not been elected yet, that he build this defense, rebuild national defense on his watch after President Clinton is gone.

So the President cannot increase defense $112 billion in 2005 because he will not be the President then, and he has no control over the President at that time. All he can do is offer a suggestion.

Of course, if the future president looks at what this President did rather than what he says with respect to defense, he will not increase defense at all because this President has not increased defense at all.

What we have to do in the U.S. Congress, Democrats and Republicans, is listen to the Joint Chiefs of Staff, that is the services, the Army, the Air Force, the United States Marines, and the Navy, and give them the equipment that they say they need.

The Army says they need $5 billion worth of equipment per year. They need $5 billion worth of increased funding per year for equipment and for people. The Navy says they need an additional $6 billion a year. The Air Force says they need $5 billion. The Marines say they need $1.75 billion. And that excludes this pay raise that we all agree our service people need of $2.5 billion per year.

If we add those numbers together, that is $20 billion this year that we need. The President has only offered $12 billion. We have to come up with the difference.

So then, as Republicans and Democrats put this budget together, it is incumbent upon us to listen to our armed services, listen to the men and women who serve in the military, and make sure that they are well equipped and that they have quality of life and that they have decent pay.

Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from South Carolina (Mr. SPENCE) so that he might control it.

The SPEAKER pro tempore (Mr. SHIMKUS). Without objection, the gentleman from South Carolina (Mr. SPENCE) will control the balance of the time.

There was no objection.

GENERAL LEAVE

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SPENCE. Mr. Speaker, Article I, Section 8 of our Constitution says that the Congress shall have power to provide for the common defense of the United States, to raise and support armies, to provide and maintain a navy, to make rules for the government, and regulation of the land and able forces.

My highest priority as an American, a Member of Congress, and as chairman of the Committee on Armed Services is to ensure that our Nation is properly defended.

This world is a dangerous place. Most people are unaware of the serious threats we face in this world and how unprepared we are to properly defend against them.

I wonder how many people, Mr. Speaker, remember Pearl Harbor. Looking back on it, all the warning signs we should have had that something big was going to happen, and we did not listen, we did not learn, and we see what happened.

Remember Korea. No one expected that to happen, and it did. I am sure that people in those days felt as confident, if not more so, than we feel today that we are in a world that we can handle, we can deal with all these problems. All of a sudden, this world changes real fast.

Imagine if, all of a sudden, all the lights went out in this place, not only here, but throughout the area, the automobiles would not start, the radios would not work, televisions would not work, no telephone communications, the computers were down. These things can happen just that fast.

There is something called EMP, electromagnetic pulse effect. If a nuclear weapon had exploded up in the atmosphere, all these things can happen on the earth without killing anyone, but shutting down all these systems that I said; and one can see how paralyzed we would be. This could happen. Russia, as a matter of fact, had it in their order of battle. Other terrorist groups could use this as a way of rendering us impotent, immobile.

Or imagine if people all around us started getting sick and dying; and by the time we found out what was happening, it was too late, but we found out that someone had released over Washington, D.C. about three pounds of something called Anthrax from a civilian aircraft and destroying or killing between 1 million and 3 million people within 24 hours because we could not vaccinate enough people fast enough to take care of them.

Or imagine an accidental launch of an intercontinental ballistic missile with a nuclear warhead. In 1995, the Norwegians launched a weather rocket into the atmosphere. The sensors in Russia mistook that for a missile launched from one of our strategic missile systems. They were within a few minutes of launching nuclear weapons against us in retaliation before they found out their mistake and did not do it. We were that close to a nuclear war.

We have no defense against one of those type missiles even launched accidently, and there are thousands of them in the world.

This is truly a dangerous world in which we are living. We have other threats. Weapons of mass destruction we hear about so much today. Chemical and biological and bacteriological

warheads can be put on shorter ranged ballistic missiles and launched against us and our troops and our friends and our allies. These are cruise missiles that can be bought across borders today by anyone. And these types of warheads can be put on them.

These weapons of mass destruction can be put together in laboratories in inexpensive low-tech ways. One does not have to be a superpower to produce these things. Terrorists can use them and bring all of us under the threat of these dangerous types of weapons.

The point is this is a very dangerous world, and we are unprepared to defend against these threats. We only have limited defenses against shorter range ballistic missiles and none whatsoever against intercontinental ballistic missiles.

We have a national strategy that says we are supposed to be able to fight two nearly simultaneous regional contingencies, something like a war with Iraq and Iran and North Korea about the same time.

We have cut back so much on our defenses since Desert Storm, the Persian Gulf conflict that we had back in the early 1990s, we have cut back so much since that time, I doubt very seriously that we could do one today, just one, certainly not with the same degree of efficiency that we did back then.

This is a very dangerous world, and we are unprepared to deal with it sufficiently. At the same time, we have been cutting back. We have charts, which I could show my colleagues, all over the world of nations which have the capability of launching these types of threats against us. Take one's pick: Iraq, Iran, Syria, Libya, China, North Korea, Russia, and the list goes on and on.

As the former director of the CIA said with the end of the Cold War, ''It is as if we have slain a dragon and suddenly found a jungle filled with many very poisonous snakes.'' What have we done to prepare for these threats?

The President's fiscal year 1999 budget request represented the 14th consecutive year of declining defense budgets. As defense spending declines, the downsizing of our military forces has been dramatic.

Since 1987, active military personnel have been reduced by more than 800,000. Since 1990, the active duty Army has shrunk from 10 to 8 divisions. Since 1988, the Navy has reduced its ships from 565 to 346. Since 1990, the Air Force has shrunk from 36 to 20 fighter wings, active and reserve. Since 1988, the United States military has closed more than 900 facilities around the world and 97 major bases in this country.

At the same time, the United States military force has been shrinking, operations around the world are increasing. We remain forward deployed with 125,000 troops per day that are overseas on forward exercises or operations.

The Army conducted 10 operational events during a 31-year period from 1960 to 1991, but 26 operational events in the 8 years since 1991.

□ 1900

The Marine Corps participated in 15 contingency operations during the 7-year period between 1982 and 1989, with 62 contingency operations just since the fall of the Berlin Wall in 1989.

The competing pressures of a smaller military, declining defense budgets, aging equipment and the increased pace of operations are stretching our forces to the breaking point. Today, they do more with less environment is eroding readiness and risking the ability of the military to successfully perform its missions.

Our deployed units, the pointed end of the spear, may be ready. But ready for what? Deployed units are getting peacekeeping training, not high intensity warfare training. Pilots are not able to get enough training to maintain air combat skills.

The national military strategy, as I said earlier, calls for us to be able to fight and win wars, and we are training for peacekeeping missions. Many believe that we cannot conduct, as I said, just one of these type operations because of it.

The Army tells us it takes 9 months to retrain people when they come back from a place called Bosnia because they are not getting warfighting training.

Although President Clinton admitted the Nation's military was confronting serious problems just recently, after us trying to tell him for a long time, and he recognized that increased defense spending would be necessary to address these problems, the fiscal year 2000 defense budget falls well short of the mark. The President's budget request addresses only about 50 percent of over $150 billion in critical readiness, quality of life and modernization shortfalls that the Nation's military leaders, the Joint Chiefs of Staff have identified.

Much of the proposed funding is also budgeted after both the President's term and the balanced budget agreement expires.

Our military confronts real problems that require real solutions, not halfway measures and budget gimmicks.

The President's fiscal year 2000 budget request has been touted as a $12.6 billion increase, but it is not. The increase is primarily the result of internal adjustments and reprogrammings within the defense budget. Of the alleged $12.6 billion increase for fiscal year 2000, only $4.1 billion is new money. The remaining $8.5 billion result from optimistic economic assumptions, spending cuts and budget gimmicks, including $3.8 billion in savings based on unusually low inflation rates and extremely low fuel costs; $3.1 billion cut in the already underfunded military construction accounts that provide decent housing for our troops and their families; approximately $2.5 billion in recisions of prior year defense funds, including almost $1 billion of recisions to missile defense and intelligence funds to offset the cost of the Wye River Agreement.

Even if all of these assumptions, spending costs and cuts and gimmicks are counted, earlier this year the chairman of the Joint Chiefs of Staff, General Shelton testified before the Committee on Armed Services, that the President's budget request would still result in a shortfall of approximately $8 billion in fiscal year 2000 alone.

If the assumptions, spending cuts and gimmicks are invalid, the President's budget falls $70 billion short of meeting the service's most critical unfunded requirements over the next few years, 6 years.

The service's unfunded requirements are real; while savings associated with the optimistic economic assumptions and gimmicks may never be.

I would yield this time to other Members who can elaborate on what we have been talking about.

Mr. RYUN of Kansas. Mr. Speaker, I would like to add some points with regard to national defense, offer an example of how our armed forces are continuously being asked to do more with less.

Within the district that I represent, which is the Second District of Kansas, resides the 190th Air Refueling Wing of the Kansas Air National Guard. Now, this Wing is responsible for a variety of support operations, including air refueling of operations worldwide, support of the no-fly zones in Iraq, organizing disaster and humanitarian relief and various other community outreach programs.

In the past year, under the stress of continued deployments, the Wing has sent personnel and aircraft to various places such as Iceland, Germany, France, Turkey and to Alaska. However, Mr. Speaker, the newest KC–130 aircraft used by the 190th was built in 1963. The oldest aircraft was built in 1956.

The President's budget forces this Wing that has extensive activities around the world to use these aircraft until the year 2040. That would make the existing aircraft 80 years old.

Now, I have had the privilege of addressing a panel of experts during a hearing in the Committee on Armed Services, and I asked them the question then, would you feel comfortable flying an 80 year old aircraft? In fact, would you feel comfortable putting your son or daughter in that particular aircraft and asking them to fly?

They gave me the same answer if I had put one of my sons or daughters in there. No, they did not feel comfortable with that.

We must make that change. We must not ask our brave pilots to go into

combat into aircraft that would be considered antiques in any other area. We must increase defense spending to give our military personnel the equipment they need to remain the world's premier military force. So I know there is much we need to do.

Mr. SPENCE. Mr. Speaker, I yield to the gentleman from Indiana (Mr. BUYER), the chairman of our Subcommittee on Military Personnel.

Mr. BUYER. Mr. Speaker, I thank the chairman for yielding to me.

Mr. Speaker, first I would like to commend the gentleman from South Carolina (Mr. SPENCE) for scheduling this very important special order. As chairman of the Subcommittee on Military Personnel, I am deeply concerned about maintaining the quality of our force that has been the hallmark of our military.

We have entered an era where the ability of our military to attract and retain quality young Americans is no longer assured.

On the issue of recruiting, Mr. Speaker, military recruiting can no longer be described as an unfavorable trend. Notwithstanding the significant increases in funding by the Services and by Congress for recruiting operations, advertising and incentives, the booming job market, erosion of the military pay and benefits package over the years have made military service increasingly unattractive for America's youth and made it questionable for those who are presently in the military to say it is worth it to spend their 20 years in the military, which causes retention also as an issue.

Let me stick with recruiting here for a moment and take it one service at a time. With regard to the Army, traditionally it is the first service to feel the pressure from downturns in recruiting. It began with the process of what I have noticed, what the military has done here to address the issue is they began a process of cutting recruit quality standards.

Now, they did that in March of 1997 by reducing the goal for diploma high school graduates. Even with the reduced recruit quality and additional funding, the Army failed to meet its recruiting objective for fiscal year 1998 and fell below the Congressionally set minimum troop strength.

Currently, during the first quarter of the fiscal year 1999, Army recruiting again is failing, and that is quite disturbing to me. If recruiting is not improved this year, the Army end strength would fall approximately 6,000 below the Congressionally authorized troop strength by year's end. So let this be a warning signal to the Army.

With regard to the Navy, during the fiscal year 1998, when recruiters missed their recruiting goal by approximately 7,000, approximately 13 percent, the Navy failed to meet the Congressionally set minimum end strength. During the past year, the Navy calculated that there were approximately 22,000 vacant positions, of which 18,000 were sea going billets.

Now, with regard to the 327 ships out there, when there are many billets open on the ships, these ships are now setting for sea at levels of readiness strength at C2, and we ought to question is it C2 plus 1? So before the ship even leaves harbor they may now be at a C3 level, which would be very concerning because what this does is then place great stress on the sailors who are actually running the ship. We are asking them to do more with less.

On January 15th of 1999, the Navy announced that they will follow the Army's lead by reducing its recruiting goal for diploma high school graduates. Even with this change, the Navy could miss both its recruiting goal and Congressionally set end strength for fiscal year 1999, and I have expressed my disappointment to the Navy for reducing its quality and its standards.

With regard to the Air Force, the Air Force has long been considered immune to recruiting problems but, again, the Air Force missed its recruiting objective during the first four months of fiscal year 1999. The Air Force now projects that recruiting and retention problems will result in the service coming to 4,800 under the end strength floor set by Congress for fiscal year 1999.

I am beginning to sound like a broken record, but these Services are not meeting their goals, nor the end strength as mandated by law and set forth here by Congress.

The Marine Corps continues to meet its recruiting goals, but only after adding funding to recruiting advertising, incentives and operations. In addition, the Marine Corps continues to lead all services in stress on recruiters with 75 percent of recruiters reporting that they work over 60 hours a week. I will extend compliments to the commandant of the Marine Corps.

With regard to retention, today with the drawdown, and I want to be cautious, Mr. Speaker, to say with the drawdown at near an end, because the drawdown seems to always continue but there are clear signals that the potential retention problems that first captured the attention of the committee several years ago are now becoming the leading edge of the retention crisis, and the chairman, the gentleman from South Carolina (Mr. SPENCE), warned many of us several years ago that the edge is near and the crisis is approaching, and we are now feeling those signs from the military.

Like any of life's decisions, the current retention problem stems from a complex series of issues. Throwing money, more money at this problem, is not going to be the sole answer. The current high operations tempo, the time away from home, long working hours, eroding value of pay and allowances, reduction in retirement benefits, lack of resources and the facilities to do the job, erosion of health care benefits, and the perception of others, the loss of confidence in the military and civilian leadership are all factors, both perceived and real, that contribute to the environment that is driving people from the military.

When you add that to the economy that continues to provide a significant pull on the high quality of men and women, you create a retention environment that could degrade the military readiness that this Nation so vitally relies upon.

In the Navy, Navy retention problems extend across the force, both officer and enlisted. The aviator, the quote, take rates, end quote, for aviation continuation pay are running well behind the force sustaining levels. Even retention of junior officers in the surface warfare and special operations communities are running well behind their required levels. Enlisted retention for all career groups in the Navy is also running at a minimum of 10 percent behind the force sustaining rates.

Retention of mid-career personnel is in the area of great concern with a current rate of 45 percent against the goal of 62 percent. This has prompted the Chief of Naval Operations to declare retention of quality personnel the Navy's highest short-term readiness priority.

In the Air Force, retention concerns in recent years have been focused on pilots, where the current shortage of 850 is expected to increase over 1,300, and that is 10 percent, by year 2000.

□ 1915

Air Force enlisted retention has now eroded to the point where it rivals the pilot retention problem. The mid career reenlistment rate has dropped from 81 percent in 1994 to 69 percent in fiscal year 1998. The reenlistment rate for the most junior personnel also continued to slide from a high of 63 percent in 1995 to 54 percent in 1998, below the 55 percent objective for the first time in 8 years for the Air Force. That should be a wakeup call to everyone because the Air Force generally does not have this concern.

The Army for the first time is experiencing a pilot retention problem with a shortage of 140 Apache attack helicopter pilots. The Army Chief of Staff has also noted a negative trend in the retention of junior officers over the last 3 years. Although the Army has been achieving overall enlisted retention objectives, the rate of first-term attrition has risen sharply to 41 percent, a contributing factor to the Army's failure to meet the congressional end strength floors of the Department of Defense bill.

With regard to the Marine Corps in retention, the Marine Corps is not immune from the pilot retention problems that plague all the services. Pilot

retention rates within the individual weapons systems are running 8 to 21 percent below the rates required to sustain the force. The Marine Corps continues to meet its enlisted retention objectives although the retention objectives for the Marine Corps are lower than the other services and are becoming increasingly more difficult to maintain.

With regard to the President's plan, Mr. Speaker, the recruiting and retention problems confronting the military are real and are deserving of the urgent attention of Congress. That is why I compliment the gentleman from South Carolina (Mr. SPENCE) for holding this special order. I am sure that there are some Members of Congress that are going to be aghast that we would be increasing defense funding. Well, it is about time we are increasing defense funding. I will extend a compliment to the chiefs because we have been beating up the chiefs at each of the services asking for their candor. Now they have come forward and they have talked about the shortfalls and they have given us their requirements. But now that they have set forth their requirements, the President has not even funded their requirements. We here in the Congress have a responsibility, and that is to fund the requirements the military needs to satisfy the national military strategy as set forth to meet the President's national security objectives. We play a vital, important role in that function. I compliment the gentleman from South Carolina for holding this special order. We will do our part in the personnel committee. We will begin by focusing not only on the recruiting and retention, the pay and the pensions issues, and we will start by a personnel hearing at Norfolk to focus on the Navy, and the other services will also be there.

Mr. SPENCE. Mr. Speaker, I yield to the gentleman from North Carolina (Mr. HAYES), a new member of our committee.

Mr. HAYES. Mr. Speaker, I want to take this opportunity to thank our distinguished chairman the gentleman from South Carolina (Mr. SPENCE) for his leadership and guidance in pointing out to the Congress, the administration and the American people the shortfall in the President's year 2000 defense budget proposal. The public deserves to know. More importantly I commend the chairman and my colleagues on the Committee on Armed Services for their enduring commitment to the men and women who serve our Nation in the armed forces. Their attention and diligence to the steady decline of our country's military under this administration were brought to light during last month's State of the Union address. At last the President took heed of the advice from Congress and professed to the American people his intention to reverse current trends of reduced defense spending. President Clinton's emphasis on a strong defense was applauded by Members on both sides of the aisle. His acknowledgment of the military's needs and his vow to restore teeth to our Nation's defenses served notice to our men and women on the front line, their families and the American people that this country protects her own.

Unfortunately, Mr. Speaker, as we have seen today, the President's pledge rings hollow. I do not intend to repeat what my colleagues have so eloquently made clear, but I do want to reiterate that Mr. Clinton's defense budget does not, as he claims, represent a $12 billion increase for fiscal year 2000. It certainly does not reflect a $112 billion increase over the next 5 years. I will mention, however, that I am particularly disappointed by the gimmickry the administration used in its military construction budget. They have literally, as Secretary Cohen confirmed today, borrowed from one account to bolster another. I am not sure if David Copperfield could create a better illusion. The President's partial funding of scores of construction projects gives false hope of starting and no expectation for completion of vital military construction.

In North Carolina's 8th District, Fort Bragg and Polk Air Force Base have been promised only 23 percent of their needs. In my district, the 8th of North Carolina and countless others, this is unacceptable. After review of the administration's budget, it is clear that we as authorizers have a great deal of work ahead. It is my sincere hope that the President will work with us to make good on his promise to shore up defense spending. It is irresponsible to play politics with our Nation's security by playing games with the budget. I look forward to his cooperation.

Mr. SPENCE. Mr. Speaker, I yield to the gentleman from Missouri (Mr. TALENT), a very valuable member of our committee and also the chairman of the Committee on Small Business.

Mr. TALENT. I thank the gentleman for yielding. Beyond that I want to thank him for his leadership on this issue. If ever there was a voice more or less in the wilderness, it was the voice of my friend and the friend of America's safety and America's greatness the gentleman from South Carolina (Mr. SPENCE) who ever since I have been in the Congress has been sounding the alarm about what is happening to America's military and finally people are beginning to listen. Let us hope that they have not begun to listen too late.

Mr. Speaker, the American military is broken. Everything my colleagues have heard tonight, the statistics, the charts, the passionate speeches, the details offered by Congressmen and women who are in a position to know. That is what it all amounts to. America's military is broken. If the Joint Chiefs of Staff were in a position to tell the unvarnished truth, that is exactly what they would say, that America's military is broken, and they have been saying it, using the language of the Pentagon, for the past several months. I am very glad that they are saying it. Wisdom is always welcome, even if it comes late in the game.

It is no surprise and it should come as no surprise to anyone that America's military is broken. It is the inevitable result of a series of decisions taken over the last 10 years and accelerated by the administration. It had to happen and it has happened. We have had 13 years of declining defense budgets. That chart shows it. Nobody argues this. Nothing I am going to say today and nothing that has been said tonight is going to provoke any argument as to the facts of what happened.

At the same time as America's spending on defense was going down, we were cutting the size of America's force by approximately one-third. We have a military that is approximately one-third less than it was 10 years ago. And at the same time as we have been doing that, we have been increasing the responsibilities of America's servicemen and women around the world. There were 10 deployments of America's military in the Cold War era till the fall of the Berlin Wall. There have been 28 since then. They have been costly and they are ongoing and nobody expects that trend to stop. We have asked our servicemen and women to do more and more and more, and we have given them less and less and less to do it with. As a result, the American military is broken.

It is not their responsibility. What have they done? What have the services done in response to these trends? They did the only thing they could do. They had to make the dollars go further. So they cannibalized units that were not deployed, units that were here in the United States, they took key personnel away from them, they took key pieces of equipment away from them in order to bring up to readiness those units that have been deployed all around the world, in Bosnia and in Haiti, and everyplace else. They borrowed from the long-term accounts, the procurement accounts, the modernization accounts, things that we needed for the future, they borrowed from them in order to meet the immediate needs of today. And so we have not recapitalized the force as we should. We have in a few years a huge bill to pay. In fact we are in a position where we are beginning to have to pay it now. I am going to talk about that in just a minute with the chairman's indulgence. We are going to have to pay for the ships and the aircraft and the tanks that we should have been paying for all along in addition to those that have to be replaced in the normal course of events.

And then the services did something else they did not want to do and it may be most tragic. They bled the people. They took the money away from personnel. We just heard the gentleman from North Carolina (Mr. HAYES) talk about the shortage of military construction in his district. We have made the servicemen and women live in facilities they should not have to live in because we do not have the money to build them decent barracks. They have not had the pay increases they should have because we do not have the money for that. We have underfunded systematically their health care system, not just for them but for the retirees. We have broken the promise we made to them because we did not have the money because we were trying to do more and more with less and less and playing this essentially dishonest trick on them and on the American people. We forced them to do more without giving them the funds that they needed. It is amazing that they have done it.

We have held up as well as we have held up because we have the finest people ever to serve in the history of humankind in the military in America's Army, Navy, Air Force and Marines. But the train is reaching the end of the line, Mr. Speaker. The chairman of the Joint Chiefs of Staff has come before the House Armed Services Committee and the Senate Armed Services Committee in the last few months, the Secretary of Defense came before the House Armed Services Committee today and affirmed that we are $148 billion short over the next 5 years of the minimum necessary funding to provide for minimum readiness for America's military in the short and long term, $148 billion, $30 billion a year over the next 5 years. It did not just happen overnight. It happened as a result of these decisions and the neglect on the part of the government that owed more to its servicemen and women.

What is the impact on the average serviceman, the average servicewoman? Mr. Speaker, I flew to Washington today and on my airplane I met a couple of men who were coming up to do work for the Air Force. They are pilots. They are in the reserves now. They told me the story. I have heard this 100 times. The people in the reserve components, in the Guard and the Reserve, they sign up to do a very important job. They sign up to be ready and to go to war if we have a war. And they are being involved in all these deployments all over the world.

I said to them, what is happening as a result of that? They said people are leaving. We are 18,000 sailors short in the Navy. So when an aircraft carrier task force comes steaming home from the eastern Mediterranean, another one is steaming out to take its place, we have to take sailors off the decks of the carriers that are coming in and put them on the decks of the carriers that are going out. They have just been at sea 6 months, they have got to go out for another 6 months. Mr. Speaker, this is a volunteer force. These are highly qualified, highly trained people. They do not have to stay. Most of them have families. They love their country and they love their duty, but they cannot do it year after year after year after year while we play games here not giving them what they need. It is terrible for this country and, more than that, it is just wrong.

What does it mean to the American people? Well, it means this force is going hollow. If we do not do something about it, it is going to be hollow and it is going to be hollow fast, and a hollow military is very bad for you and me and your families. It means we cannot effectively counter the growing power of China or fight a war against terrorism the way we should around this globe. It means we cannot defend the Korean peninsula. We could not fight another Desert Storm without unnecessarily high risk and high casualties. It means we have no missile defense. If these rogue nations get long-term missile capability as fast as we now believe they will, we cannot defend our allies or ourselves because we have not been doing our duty in this government and in this body. It means, Mr. Speaker, that war is more likely to happen and more likely to kill an unnecessarily high number of servicemen and women if it does happen. And it is wrong. We have given these years over to the locusts and given the men and women who count on us in this country and in the services over to the locusts with it and it is wrong. It is worse than wrong. It is just shameful.

What do we do now? We do the one thing that will make a difference. We put our money where all our mouths have been tonight. We step up to the plate, this Congress, this year, not 2 or 3 or 4 years from now when many of us are out of office and we can make promises on behalf of successor Congresses and successor administrations, we step up now and we put enough money in this budget to enable these people to do what we have asked them to do on our behalf and on behalf of our families.

□ 1930

And not smoke and mirrors, not a couple billion dollars in projected increases, and then the rest of it is supposed to come out of existing spending authority. We do not assume that fuel costs are going to be 27 percent less next year than they are now and say, therefore, we are going to be able to spend more money on other things. We stopped the dance; we have been doing that long enough.

This issue is vital to America's safety, it is vital to our commitment to our men and women, and it is vital to our greatness, and we have to do something now. That is why the chairman is here organizing this special order. That is why those of us on the committee on both sides of the aisle are so concerned. That is why this House has to act in the people's House.

Mr. Speaker, I thank the chairman for holding this special order, and I thank him for his tireless efforts, his persistence year after year in sounding this alarm. You were right, Mr. Chairman. I bet you wish that you had not been right, but you were right.

Now we have a chance to do something. There is no stronger signal that we can send to the men and women in uniform that we care about them than to do something.

Now I am going to close with a story from my first year on the Committee on Armed Services. It was then under the chairmanship of the gentleman from South Carolina's predecessor, Mr. Ron Dellums, our friend from California, an outstanding and gracious gentleman. We had a hearing on a very contentious issue, and there was a retired officer who testified, and he talked about the issue, and then he talked about the military life.

He said, you know, it is hard being in the military; we move a lot, it is a big strain on our families, it is very difficult. He said we have to put our lives on the line, we have to contemplate the fact we may have to go to war and die, and it is not easy. He said we are glad to do it because we care about our country and we care about the traditions of our services. He said we are glad to do it. And then he looked up at the Armed Services Committee, all three tiers of us sitting there, and there I was on the lowest tier over on the side because I was a freshman. And he looked at us, and he said:

But we count on you to protect us. We count on you.

They count on us, Mr. Speaker, and we have let them down. It is time to stop letting them down. We need to do it this year, now, not on the next guy's watch.

Mrs. BONO. Mr. Speaker, today I rise to speak to this body and the nation, especially those in California's 44th district, about the President's FY 2000 budget for Defense.

Since 1985, Mr. Speaker, Defense spending has gone down in this country. When the Constitution was drafted, it was based upon the doctrine of limited government. Those powers that were not granted the federal government were reserved to the States. One of the primary, and exclusive powers, of the federal government is to provide for the national defense. This means fully funding our military to make them the strongest, best trained, best equipped, and, not to mention, the best taken care of force in the world. Many of those who live in the district I proudly represent are or were in the military. The sacrifices they made or are making should never be forgotten; for they contribute to the freedoms we now enjoy.

The President's budget claims to increase defense spending in Fiscal Year 2000 by

$12.6 billion and $112 billion over the next 5 years. Due the Administration's creative accounting and their rosy forecasts for the economy, the reality is that this ''increase'' is really $4.1 billion in FY 2000 and $84 billion over those same 5 years. I applaud the Administration for the increase, but it falls way short of what the military needs. In fact, two weeks ago, the Joint Chiefs of Staff testified before the House Armed Services Committee, under the questioning of my Chairman of Procurement, DUNCAN HUNTER, about what they will need in budget authority this year to fund their requests at the bare minimum. The total came to $20 billion. Even assuming the Administration's funding projections were accurate, that would still leave the military $8 billion short of what they require. Maybe the Administration could have displayed their commitment to the armed forces by coming up with the extra $8 billion.

What we need to do is make a real commitment to the men and women of the Armed Services. We need to get back to what this country, this body, our President, was chartered to do: to provide for the national defense. I, also, want to save Social Security, reform Medicare, enhance education, but I also want to get our men and women in the armed services good health care, modern equipment, time with their families and decent pay and retirement. But more importantly than that, I want this nation to make a solid commitment to the defense of this country with a domestic missile system. So our people will know that if, and I pray to God that this will never happen, a rogue nation were to fire a missile onto this country, we will have the defenses to protect our citizenry.

Unfortunately, Mr. Speaker, the Administration's budget proposal does not go far enough to meet those goals.

NO U.S. MILITARY BASES IN AZERBAIJAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise today to draw the attention of the Members of this House and the American people to a potentially alarming development in our foreign policy. As was reported in this Sunday's New York Times, the Republic of Azerbaijan has made what the newspaper called a startling offer. It wants the United States to open a military base there. The article notes that American oil companies have invested billions of dollars in Azerbaijan, and the New York Times also makes a particularly relevant point that such a partnership might draw the United States into alliances with undemocratic governments.

This story has also been picked up by Reuters and the Journal of Commerce, among other media outlets, and while the State Department and Defense Department denied plans to construct a military base in Azerbaijan or to move an existing facility from the Republic of Turkey into Azerbaijan, unnamed U.S. officials were mentioned in press accounts as not ruling out the need for an undefined arrangement to ensure the security of a future pipeline to deliver oil from the Caspian Sea to the Turkish oil depot at Ceyhan.

Mr. Speaker, I cannot imagine a worse idea. While I strongly support new approaches to U.S. international engagement in the post-cold war world, this proposal would not advance U.S. interests or American values. The only justification for this proposal is to make U.S. foreign policy and our military forces a tool for protecting a new and, I would say, unproven supply of oil, and to try to placate the two countries that are deemed essential to the extraction and delivery of those oil supplies; that is, Turkey and Azerbaijan, two countries, I might add, with terrible records in terms of democracy and human rights.

Mr. Speaker, for some time now I have been critical of what I view as the administration's apparent determination to see the pipeline from Baku to Ceyhan constructed. Ironically, the oil companies themselves are balking at this arrangement. The proposed pipeline is too long and costly, particularly as oil prices continue to drop. One major international consortium led by the American firm, Pennzoil, has announced that it will terminate its test drilling operations in the Caspian near Baku after finding only half the volume of oil and gas necessary to assure profitable exploitation. Today the Wall Street Journal reports that another group led by Amoco and British Petroleum is cutting personnel and deferring development on Caspian oil exploitation due to disappointing test results and declining oil prices.

It is becoming apparent that the new pipeline proposal lacks commercial viability. It is a boondoggle whose only purpose is to placate the demands of Turkey and Azerbaijan, to give those two countries the power and prestige of controlling what some see as an important source of energy resources. And now apparently Azerbaijan craves the further benefits of a U.S. military commitment, and some unnamed U.S. officials are apparently toying with this idea.

Mr. Speaker, this week I will be circulating a letter among my colleagues asking them to join me in making it clear to President Clinton, Secretary of State Albright and Secretary of Defense Cohen that we consider a U.S. military presence or commitment in Azerbaijan unacceptable.

And yes, Mr. Speaker, the administration is right to identify the Caucasus region as an important American interest, but it is wrong to make oil the major, not only the only basis for our engagement in that region, and I hope we can stop this train before it leaves the station.

Mr. Speaker, I enter the rest of the statement as an extension of my remarks.

Mr. Speaker, I rise today to draw the attention of the Members of this House and the American people to a potentially alarming development in our foreign policy. As was reported in this Sunday's New York Times, the Republic of Azerbaijan has made what the newspaper called a ''startling offer—it wants the United States to open a military base there.'' The article notes that American oil companies have invested billions of dollars in that country. The New York Times also makes a particularly relevant point: such a partnership ''might draw the United States into alliances with undemocratic governments.''

This story has also been picked up by Reuters and the Journal of Commerce, among other media outlets. While the State Department and the Defense Department denied plans to construct a military base in Azerbaijan, or to move an existing facility from the Republic of Turkey into Azerbaijan, unnamed U.S. officials were mentioned in press accounts as not ruling out the need for an undefined arrangement to insure the security of a future pipeline to deliver oil from the Caspian Sea basin to the Turkish oil depot at Ceyhan.

Mr. Speaker, I cannot imagine a worse idea. While I strongly support new approaches to U.S. international engagement in the post-Cold War world, this proposal would not advance U.S. interests or American values. The only justification for this proposal is to make U.S. foreign policy and our military forces a tool for protecting a new—and unproven—supply of oil, and to try to placate the two countries that are deemed essential to the extraction and delivery of those oil supplies, Turkey and Azerbaijan—two countries, I might add, with terrible records in terms of democracy and human rights.

Mr. Speaker, many Americans may wonder why Azerbaijan, a formerly obscure republic of the former Soviet Union, is the subject of such intense interest. The answer, in a word, is oil. To Azerbaijan's west lies the Caspian Sea, an inland sea or salt lake (and the exact designation is the subject of a debate with important ramifications about who controls its resources) which some have claimed contains vast reserves of oil and natural gas. American and other western oil companies have a keen interest in developing these reserves—which, I emphasize, Mr. Speaker, remain unproven reserves. Oil companies have spent billions of dollars on this effort, and have sent in thousands of their employees to Baku, the capital of Azerbaijan.

Unfortunately, it is beginning to appear that America's policy in the region is being driven primarily by the desire to extract these unproven petroleum reserves. We have seen Azerbaijan's autocratic President, Heydar Aliyev, wined and dined at the White House, Capitol Hill and elsewhere in Washington. (The term ''autocratic'' is the New York Times's word, not mine.) The U.S. response to the lack of democracy, free expression and basic human and civil rights under President Aliyev—who seized power in a coup—has been muted at best. There have been efforts over the past few years under the Foreign Operations Appropriations legislation to reward

Mr. Aliyev, and the oil companies, with political risk insurance and other subsidies, courtesy of the American taxpayer. Now, I'm afraid we could see that policy come to its logical conclusion with the placement of U.S. military forces in Azerbaijan. We must stop this proposal before it advances beyond the planning stages.

For some time now, Mr. Speaker, I have been critical of what I view as the Administration's apparent determination to see the pipeline from Baku to Ceyhan constructed. Ironically, the oil companies themselves are balking at this arrangement. The proposed pipeline is too long and costly, particularly as oil prices continue to drop. One major international consortium, led by the American firm Pennzoil, has announced that it will terminate its test drilling operations in the Caspian near Baku after finding only half the volume of oil and gas necessary to ensure profitable exploitation. Today, the Wall Street Journal reports that another group, led by Amoco and British Petroleum, is cutting personnel and deferring development on Caspian oil exploitation due to disappointing test results and declining oil prices. It is becoming apparent that the new pipeline proposal lacks commercial viability. It is a boondoggle whose only purpose is to placate the demands of Turkey and Azerbaijan, to give these two countries the power and prestige of controlling what some see as an important source of energy resources. Now, apparently, Azerbaijan craves the further benefits of a U.S. military commitment, and some ''unnamed'' U.S. officials are apparently toying with the idea.

Mr. Speaker, this week, I will be circulating a letter among my colleagues asking them to join me in making it clear to President Clinton, Secretary of State Albright and Secretary of Defense Cohen that we consider a U.S. military presence or commitment in Azerbaijan unacceptable.

Yes. Mr. Speaker, the Administration is right to identify the Caucasus region as an important American interest. But it is wrong to make oil the major, let only the only, basis for our engagement in that region. I hope we can stop this train before it leaves the station. Then we need to focus on a Caucasus policy based on economic development, the promotion of democracy and human rights, self-determination, and the resolution of territorial and other conflicts through negotiation.

CHINA POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, this is an appropriate evening for me to be presenting what I have to say, whereas we have just heard about the changes in American defense that have taken place, some alarming changes that have taken place over these last 10 years, and in fact since 1985 there has been a dramatic decline in America's military power. At the same time, while America has been permitting its own military power to go astray or to be in decline, there have been noises being heard from across the pond, from across the Pacific Ocean, and those noises, unfortunately, are not the sound of a peaceful neighbor, but instead the sound of a neighbor that seems to be, instead of decreasing its military power and concentrating on peace and prosperity, instead seems to be the sound of a neighbor that is building a massively repressive military regime that threatens the United States and threatens our security, especially when we are considering the fact that America is no longer the military power it once was.

After 10 years in Congress, I find myself to be a senior member on two very powerful committees, the Committee on Science where I am the chairman of the Subcommittee on Space Aeronautics, and the Committee on International Relations where I sit on both the committee dealing with export policy as well as the subcommittee dealing with Asian policy. Thus, I find myself playing a major role in the trade and technology transfer issues concerning communist China. I would like to focus on China policy this evening, and I thought that an appropriate leadin was something that just happened to me recently in my own congressional district.

It was only a short while ago that I received a call in my office that the local Chamber of Commerce, with the support of the local city government, was planning to have a lunch co-hosted by the city and the Chamber of Commerce honoring the Consul General of the People's Republic of China, and I was asked whether or not I would be willing to present a certificate or a key to the city or some kind of greeting to this representative of the communist Chinese regime. And I felt at that time that even in my own congressional district at the time, with all the time and effort that I have put in to describing what is going on in Asia, even the people in my own congressional district did not understand the magnitude of the threat posed by this vicious dictatorship on the mainland of China.

In fact, I was called by Mayor Green when I expressed my disapproval of this luncheon honoring this representative of the Communist Chinese government. Mayor Green of Huntington Beach asked me, well, what is your opposition all about, and after I explained it to him, he understood why I was opposing this, and he said: But how should we treat officials from the communist Chinese government? I mean, after all, they are a government. How should we react to this? How should we act towards them, if not having this type of luncheon?

And I said, Mayor, you should treat the representatives of the Chinese communist government the same way that you would treat a representative of Adolph Hitler's Nazi regime in 1938. And if you would feel comfortable having a Nazi representing Adolf Hitler as a guest of honor, being honored by your city and Chamber of Commerce back in 1938, if you thought that would be an appropriate thing, well, then you would feel that it was appropriate that that is the way we honor a representative today of the world's worst human rights abuser, the communist regime in Beijing.

Well, that luncheon was canceled, and I am very grateful that the members of the local city government and Chamber of Commerce listened to what I had to say because I am sure that the communist Chinese would have used it as a propaganda tool to say that, see, even the American people in Congressman ROHRABACHER's own district do not go along with him.

Well, as soon as they knew the facts, the people of my district were very quick to respond, and I think what is vitally important is for the American people to know the facts; for them to know, number one, that we are not the same powerful military force that we were 10–15 years ago and that, number two, that there is a growing threat to world peace and a growing threat to our own national security on the other side of the Pacific.

During the Reagan years I worked as a speech writer while President Reagan was President, and I worked for him for 7 years, and during that time period I remember when he went to China. In fact, I remember working on his speech in which we offered American know-how to the Chinese if they would agree to have their goals as being peace and liberalization of their country. And at that time that made sense, and in fact President Reagan's approach was a positive approach, as Ronald Reagan was known, and it was something to try to give them the incentive to go in the right direction. When I say ''they'' I am referring to the leadership of the Communist Party that controls the government of China.

During that time period when I worked at the White House, a young Chinese exchange student walked into my office, and what was fascinating, that it was on a Saturday, and I was working there on Saturday afternoon, and almost no one was in the Executive Office Building. By the way, the Executive Office Building is that building right next to the White House where the President's top national security and economic advisers and policy advisers work. When most people say they work in the White House, they really work right next door in the Old Executive Office Building.

So the most sensitive area of our government, there a Chinese student walked in unaccompanied and just walked right into my office as I was working on his speech, and he explained to me that he had met one of the researchers in my department and that she had invited him to lunch and

that he was coming there to meet this researcher. And he had been checked in through the security, and again without being escorted whatsoever he was walking by himself through the very heart of America's decision-making process at the Old Executive Office Building. I did not find that to be unusual at all because we were at that time convinced that China would never go back, that China had already evolved to a point that it would never be a threat to freedom, and that in fact the people of China were well on the way to a bright and prosperous and democratic future.

□ 1945

During the Cold War, of course, is when we started this evolution towards democracy in China, and it was right for President Nixon and the other presidents who followed the policy laid down by Nixon to play China off against Russia during a time when Russia threatened the entire world, when Russia's communist regime was arming itself to the teeth, sponsoring military actions and covert operations against the democratic governments all over the world.

Nixon, yes, played China against Russia in a way that permitted the western democracies to have the leverage they needed, the leverage they needed in the western democracies to prevent war and to prevent the dictatorships, the communist dictatorships of the world, from having the leverage they needed to win the day and to win the battle of the Cold War and to put us in jeopardy.

So we did. And during this time period, when we were playing China off against Russia, we developed a new relationship with China. And as part of that relationship, a democracy movement was building. This was what we saw when that young Chinese student was walking right through that building a few years later in the early 1980s. He represented a new China, the new potential for freedom and peace in China. And through the Reagan years, although the leadership of China remained tyrannical, just as it was under Nixon, there was a growing democracy movement that was undermining the tyranny that controlled the mainland of China, and it was an ever-increasingly powerful democracy movement, but it was invisible.

All of a sudden it became visible when, in Tiananmen Square, tens of thousands, perhaps even more, Chinese people, activists, democracy activists, gathered to tell the world that they were committed to democratic reform, and there, before the world to see and all of the national and international media, we could see that there was a democratic movement in China that gave us all hope, and it was a surprise to us and actually it was a surprise to the communist leadership.

But by then Ronald Reagan was no longer the President of the United States. George Bush was President of the United States, and, unlike Ronald Reagan, President Bush did not believe that the promotion of democracy and freedom was on the highest level of priority for the United States Government. In fact, George Bush's administration, instead of talking about freedom and democracy, spent most of its time talking about stability and trying to build a new world order.

What that led the communist Chinese to believe was that if they came down hard on the democracy movement in Tiananmen Square, that this administration, meaning the George Bush administration, would go along, because they were interested in stability.

In fact, that is what happened. There was a massacre of the democracy movement in Tiananmen Square. Thousands of people lost their lives, and then throughout China there was a great leap backwards, where people who believed in democracy, people who believed in religious expression and different various religions, people who were bringing China into a new era, were arrested throughout that country and thrown into a logi prison system that was similar to the gulag archipelago that the Russian people were thrown into by their communist bosses.

In a very short period of time, the positive and pro-democratic and propeaceful future of China was turned around dramatically, and instead, the picture of China controlled by thugs and goons, putting their boot in the face of the people of China forever, was the vision that emerged.

This, of course, happened very quickly, because I think there was something that was happening that we did not really fully appreciate that was happening in the United States at the same time that the democracy movement was gaining strength in China. You see, while we had this special relationship with China, and thus there was a democracy movement developing there, there was another movement developing in the United States that could be traced, its origins, back to that same relationship that we are talking about.

American billionaires and would-be billionaires were using their considerable leverage on the United States Government to ensure that they had a policy, that we had a policy, in dealing with China, that would permit them to exploit what was little more than slave labor in China.

American business interests, powerful American business interests, wanted to go there and wanted to make a quick profit, and they could care less about the other implications of doing business within a regime that was so tyrannical and so militaristic.

Of course, the businessmen who were doing this described their motives in the best possible ways. In fact, they claimed that the China market was so large and potentially so valuable that it would be a sin against the American people to let America's competitors get that business, when they should be the ones getting the business, as if those American business interests really had the interest of freedom and democracy or even the interest of the American people at heart.

Well, those big corporations were wrong, or perhaps they were just lying, because perhaps they did not care anyway. That remains to be seen. Perhaps some of the people who have invested in China care deeply about the Chinese people. Frankly, there have been hundreds of businessmen that I have spoken to on this issue, and while they claim that the more contacts they have, business contacts, with China, will make China more liberal, not one of them seems to have ever spoken about human rights to any of the local government officials in those areas in which their own factories are located.

Well, all we have to do is look at the record. Over these last ten years, since the Tiananmen Square massacre especially, repression has increased, even though investment in China has gone along at a very brisk rate. So no matter how much money our businessmen are putting into China, the repression continues, and it has gotten worse. In fact, there was a democracy movement at one point, and now all the democrats are in jail or they have been executed or they have been forced into exile, and there is not a viable democracy movement today.

So has this, our trade, really helped stimulate more democracy? No. In fact, the Chinese dictators have seen our investment as evidence that Americans really do not believe in freedom, do not believe in democracy, do not even believe in their Christian principles or other religious principles enough to side with the religious people of China who are being persecuted.

Let us note this at this moment: China, although we have been told is this vast market, little Taiwan, with 20 million people, little Taiwan buys twice as much from the United States as does all the billion, over 1 billion people, perhaps 1.5 billion people, on the mainland of China.

Is this such a vast market? Well, one of the reasons, of course, that vast market is not being exploited is that there is a government policy by the United States to permit the communist Chinese regime to charge a tariff on any American products being sold in Communist China that is far greater than any of the tariffs we charge on their goods that are flooding into our markets.

Thus, many of our goods that we would like to see sell in China to their

consumers are charged 30 and 40 percent tariffs, while we only charge them 3 or 4 percent tariffs, and they flood our markets with shoes and commercial items and consumer items that have put many American businesses out of business.

No, my theory is when looking at what has been going on is the big businessmen who are investing in China really do not care about America's, about America's, future share in the Chinese market. What they care about is the 25 percent quick profit that they themselves will make by investing in China today, and they have done so in these investments over these last few years with not one concern at all of the human rights abuses, nor any concern about the American people. In fact, as I say, much of this investment has been done at the expense of the American people and the expense of people who are working and providing goods and services here.

In fact, a large number of the sales that China is making here can be attributed to U.S. companies that have built manufacturing units in China in order to use the Chinese, that have no environmental rules, no labor legislation. In fact, the Chinese laborers have none of the rights of the American laborers, and actually they receive a pittance many times as compensation. So, a lot of times our people, they say we have to invest in China in order to make sure that America can sell its goods. In reality, what they are doing is they go to China and set up a manufacturing unit and then sell those goods back to the United States.

If a refrigerator company would like to sell a refrigerator in China, no, they go there and set up a refrigerator manufacturing company and sell the refrigerators not to the Chinese, but back to the people of the United States, taking full advantage of the slave labor in China.

In fact, I have heard that people who believe in certain religious faiths, Christians and others, who have not joined the official church in China, sometimes have been dragged out kicking and screaming, out of certain factories, even factories owned by Americans, and yet the American employers have done nothing to prevent these people from being arrested because they belong to a church that is not registered by the state.

Yes, there are some companies, Boeing Company, for example, is a company that is the largest employer in my district, and I respect the fact that they want to sell airplanes. As I say, most of the time when people are talking about selling, they are not really talking about selling the product. A lot of times they are talking about setting up a manufacturing unit.

In Boeing's case, they actually do sell some airplanes. But along with these deals to sell airplanes, how many of us realize that part of the deal is that Boeing will be setting up manufacturing units in China, so after a given period of time, in dealing with enough American aerospace firms, they will have the capability of manufacturing airplanes and aerospace technology on par with the United States.

Yes, there is a quick profit to be made by a sale this year or next year, but if we are doing that by setting up manufacturing units which will permit the communist Chinese to outcompete our own aerospace workers and put them out of work five years down the road, who is to profit? The communist Chinese will benefit from that, and the American people, in the long run, will lose.

Well, we have a fight every year here in Congress over most-favored-nation status for the communist Chinese, and in fact we have just passed a rule today that is changing that to say, what is the trading status they want to change it to, it is the standard trading status, or something. Normal trading relations, that is it. They want to change most-favored-nation status to most normal trading relations. I did oppose most-favored-nation trading status for China, and I oppose normal trading relations for China, because by passing this classification of China, we are saying that the communist Chinese will be treated just as we treat Belgium or Italy or Canada in terms of our trading relations.

No, if we have free trade with other people, free trade should be between free people, not between a dictatorship that manipulates it on one end and free people who permit their billionaires to invest with no concern about the national security implications to our country or the long-term national economic interests of our country. So I would be opposed to normal trade relations.

Also there is the side benefit that the communist get, by the way, as well as the billionaires who want to invest in China get, by having normal trade relations. And that is what this issue really is all about. It is hard fought on this floor of the House every year, and you will hear speech after speech saying we cannot isolate China. We have to sell our products. We have to engage in commerce with China.

□ 2000

No one is talking about isolating China, and no one is talking about preventing these businessmen from selling whatever they want to sell to China, except perhaps some very sophisticated military equipment, which I will discuss in a few moments. But by and large, American companies, or no one who opposes Most Favored Nation status or normal trading relations with China are opposed to them selling these things, and they will not have anything to prevent them from selling these things.

However, with normal trading relations just like we have with the other democratic countries, these large financial interests, these billionaires who want to seek ever more money with no concern about the effect that it has on jobs in the United States, are then subsidizing, they are eligible for subsidies by the American taxpayer. By having normal trade relations, we then have set up a situation where the Export-Import Bank, or the World Bank or OPEC or any number of other financial entities paid for by the American taxpayers, can provide a subsidy or a loan guarantee or a loan at a lower interest rate for their investments in communist China.

Now, what does that mean? That means working people in the United States are being taxed and their money is being given to a very wealthy interest in order for that interest, to guarantee that interest's investment in a dictatorship, in order to use slave labor to export goods to the United States to put our own people out of work. What we have done is we have made it more attractive to invest in a hostile dictatorship than to invest in our own country.

We actually can say businessmen can think about earning a large profit margin and have their investment guaranteed by the American taxpayer. That is what normal trade relations is all about. That is what Most Favored Nation status has really been about. Because these businessmen could still, if they manufacture a product here, there is no one stopping it. This has been an effort to confuse the American people; their arguments have been designed to confuse and to lie to the American people, so that they do not realize that in reality their own money is being used against them.

This whole system, to be fair, was in place before Bill Clinton became President of the United States. And I remember when he first ran for President, he accused George Bush of kowtowing to the communist Chinese dictators. And President Clinton, when he became President after he won the election, just like in so many of the other things that he has done as President of the United States, has gone in exactly the opposite direction than what he promised the American people when he ran.

In fact, this administration's policies on human rights and democracy have been a catastrophe that has been an administration with the worst human rights record in the history of this country. People all over the world who look to us and believe that the United States stood for democracy and freedom have now lost hope, because they see an administration that wraps its arms around not just the communist Chinese, but just about every vicious dictatorship in the world.

Ronald Reagan understood that there is a relationship between peace and

freedom. He understood that unless we fight for democracy and stand firm for our principles of freedom, that we will not have peace, because there is a symmetry in this world in which economic freedom and political freedom and peace are all connected. And there is a price to pay, there is a price to pay when one wraps his arms around criminals or when a country wraps its arms around a vicious dictatorship like that in China, which is the world's worst human rights abuser.

The American people are just now beginning to learn the truth about the risks of treating a vicious dictatorship in the same way that we treat a democratic nation. They are beginning to learn the truth about the risks that we have been taking by having normal trade relations or Most Favored Nation trading status with China, and treating them the same way we would treat the English or the Italians or the Austrians. Let me put it this way. In those other democratic countries, they are ruled by people who are elected and who respect the rights of individuals, of their own citizens.

Those people who run these dictatorships around the world hate the United States. These gangsters that murder their own people and have aggressive goals, and they look with an eye towards the resources and the land of their neighbors, these people who suppress people for their religion, these people who would murder someone for speaking up against them, these gangster regimes hate the United States and hate the people of the United States because they know that we are the only thing that stands between them and being secure in their power. Because they know it is the goodwill of the people of the United States of America that has saved this world in this century twice during the world wars, and then during the Cold War, from tyranny and totalitarianism, and it was only the strength and courage of the American people and our determination to live up to the ideals that were set forth by our Founding Fathers, it was only that commitment that prevented monsters like they are now from achieving total power on this planet. The Hitlers and the Stalins are still in power, but they are in power in China and in others of these little petty dictatorships around the world, and they hate us, and they know that we are what stands between them and having a secure hold on power in their own country and their ability to bully their neighbors.

President Clinton thinks he is trying to make friends with these people in Beijing by calling them, wrapping his arms around them, calling them our strategic partners, saying that the United States Government, the people of the United States, the most freedom-loving people in the world, people who take their religion seriously but believe in freedom of religion for all people, that we are strategic partners with the world's leading abuser of human rights, a regime that has been manipulating the trade between us so that it has tens of billions of dollars every year to increase their military power and their military might.

Well, as they do increase their military power and President Clinton calls them our strategic partners, one must wonder whom are we the strategic partners against? Are we in partners against the democratically elected government in Taiwan, or how about the democratically elected government in Japan, or how about the democratically elected government in the Philippines, or how about South Korea? What do the people who live in these democracies think when they see the President of the United States calling our relationship a strategic partnership with this militaristic regime that opposes their own people so thoroughly?

Even while President Clinton was in China the last time, the Chinese dictators are so cynical that they were testing a new rocket engine that they are trying to bring out and deploy in a new weapons system, and this new rocket engine in this weapons system is designed for one thing. It is to kill Americans, kill American military personnel and perhaps even put our country in jeopardy.

And when they were testing this rocket engine while President Clinton was there, he knew about it, he had read the cables. His National Security Council had read the cables. They knew the intelligence information, and guess what? President Clinton did not bother to bring it up to the Chinese. It just did not come up in the conversation. Do you think that the strong-arms and tough guys and the gangsters who run communist China respect President Clinton, or are they more likely to be friends of us, friends of us because he did not bring it up, he did not embarrass them by bringing it up in a conversation?

Mr. Speaker, when we do not mention the genocide in Tibet or the threats against Taiwan because it was having free elections, or the arrest of Christians and the repression of a free church, forcing everybody to register in a communist-recognized church; when one does not bring up a free press or forced abortions, one should not be surprised that the communists who control China do not take our calls for human rights seriously. And when they do not take us seriously, we should not be surprised to find out that they are building their military forces in a way that threatens the United States and that they are beginning to commit acts of aggression against their neighbors. That should not surprise us at all.

This hug-a-Nazi-and-make-him-a-liberal strategy of the Clinton Administration is doomed to failure just as it was when Neville Chamberlain and those people in the 1930s confronted that threat to world peace and freedom.

President Clinton, of course, has gone beyond that. He is not just hugging the communist Chinese dictators, he is encouraging American corporations to do business. It is this administration's policy that taxpayer money be used as a guarantee for businessmen who will invest in China. In fact, it was President Clinton's administration that encouraged even our aerospace companies to go in and do business in communist China. Of course, there is evidence that during the last election some of these companies were also major contributors to President Clinton. In fact, Bernie Schwartz was the biggest contributor to President Clinton's campaign, and he also, of course, was the head of Loral Corporation, which is now accused of sending missile and other technology, weapons technology secrets to the communist Chinese who will now use that information, if they have it, which we know they do, to threaten the United States and to threaten the lives of the American people.

So, but one cannot determine, was it the aerospace companies, some of these big corporations pushing Clinton, or was it Clinton pushing them?

The Chinese have invested money in American elections, not to buy perhaps opinion but at least to meet people and to have friends in high places. We all remember that the communist Chinese provided certain amounts of money, and we still do not know if that money was the money that was given to Vice President GORE when he went to that Chinese monastery, all of those Buddhist monks out there on the West Coast who had all of those thousands of dollars to donate. Even though they had been living a life of poverty all through the years, they just had those checks that they gave to the President's reelection effort. Where did that money come from? Did we ever learn where that money came from?

The bottom line is there has been a lot of shenanigans going on, but what is worse is the fact that weapons technology that was developed and paid for by the American taxpayer to help us preserve the peace has made its way into the hands of a regime that hates the people of the United States and hates everything that we stand for as a Nation. And now they have technology for weapons of mass destruction paid for by the American taxpayer that has been put into their hands.

Now, I am proud to have played a role in exposing this to the American people. It was about a year ago when I first made my first speech on this issue. Because earlier than that, as chairman of the Subcommittee on Space and Aeronautics, I had actually

gone to a meeting of aerospace workers and engineers, and one of them was describing how he was involved in upgrading the capabilities and the efficiency of communist Chinese rockets in order to lift off satellites, American satellites.

I said, wait a minute, wait a minute. You are telling me that you are using American technology, your know-how, and you are improving the capabilities of these rockets? He says, Congressman, they do not even have the right stage separation technology and they will blow up shortly after lift-off, and they do not even have the capability in some of these rockets to carry more than one payload. I said, wait a minute. A communist Chinese rocket blowing up, that is a very good thing.

□ 2015

He says, ''Don't worry, Congressman. You are thinking about the security implications.'' I said, ''Yes. Yes, I am. I am worried about the security implications of American technology upgrading the capability of Communist Chinese rockets.'' He says, ''Don't worry. The White House has given us waivers. This is part of an overall program that the White House has totally approved of.''

That is when the alarm bells started going off. Who is watching the watchdogs? I talked about this. I did my own investigation. I verified what this engineer had told me. I talked to subcontractors and major contractors and major aerospace companies.

In just a very short time I was able to confirm that some of our aerospace giants had used the technology that we had made available to them in a way that enables the Communist Chinese to have a better chance to effectively drop nuclear weapons in the United States of America and to upgrade their weapons systems, putting American military personnel at risk. It was enough to knock the wind right out of my lungs.

While I was doing this, the New York Times was also involved in an investigation, an investigation that turned up the same type of information that I was coming up with. I tried to alert people. All over this body I was talking to chairmen and people. I tried to tell Newt, but things were very confused and things were going fast. I told Newt several times.

Finally I remember when I got his attention, because Newt was a man of history. I said, you know, Newt, this is really the worst betrayal of America's security interests since the Rosenbergs. He turned to me and said, what did you say? I said, yes, the Communist Chinese, people who hate us, now have the ability, a greater ability to incinerate millions of Americans, and it is due to American technology.

He turned to his aide right over there in that corner, I will never forget, and he said, is DANA right? His aide said, yes, there are some reports out that what DANA is saying is accurate. And Newt immediately called together the leadership of the Committee on National Security, the Committee on International Relations, the Committee on Science, and the Committee on Intelligence, and the gentleman from California (Mr. CHRIS COX) was assigned, after a long discussion. The gentleman from California (Mr. CHRIS COX), a man who was one of top legal counsel to President Reagan, was assigned to head up a select committee to find the details about this transfer of technology to the Communist Chinese.

While I have not read the Cox committee report because it is labeled top secret, and I wanted to be able to speak freely on this issue, but those who have read it, and the gentleman from California (Mr. COX), in his summary, which is not a classified summary, indicates that the charges that I have made against certain American aerospace companies have been verified, and that there has been a sustained and systematic effort by the Communist Chinese to get their hands on American weapons technology, especially the technology of weapons of mass destruction.

During the Reagan and Bush years the Communist Chinese stole this technology. They stole it because we were trying to operate with them on a friendly basis. During the Clinton years this technology has been up for sale, up for sale, and the Clinton administration has overseen the transfer of American technology through these large aerospace companies. That means that American citizens by the millions could lose their lives in a future confrontation with the Communist Chinese.

As I say, it is perhaps the worst betrayal of American interests that I have ever seen in my lifetime. The Cox committee report verifies that, but the American people are not being permitted to see the Cox committee report.

This is kind of a funny situation, because the Chinese know what information they stole from us. Now our government knows what information they stole from us. The only people who do not know the details about the technology that they have paid for to protect their interests, now being used by a vicious dictatorship to threaten the American people, the only ones who do not know about that are the American people themselves, because this report is being kept under wraps, except it is, of course, being exploited by this administration, which I will go into in a few moments.

In the meantime, as the Communist Chinese ability to fight and kill Americans is increased, they have become more and more belligerent, more and more tyrannical, more and more aggressive toward their neighbors. Whether we are talking about the Spratly Islands, where they have been bullying their neighbors, or in Tibet, where they are committing genocide against the people of Tibet, or in Burma, where they are the godfathers of that vicious dictatorship that holds the whole population of Burma in a grip, in a dictatorial grip, or the helping hands they are giving to other anti-western dictatorships throughout the world, these are things that are happening now because the Chinese have lost all respect, the Communist Chinese have lost all respect for us, because they know that we do not care about a thing that we say, that it is just phony baloney when we talk about human rights, because this administration has done nothing to prevent the flow of weapons technology, and in fact has done nothing to prevent the billions of dollars that they have left over from this unfair trade relationship, which we have permitted them.

Not only have we permitted them to have an unfair trade relationship, we have subsidized this unfair trade relationship, giving them tens of millions of dollars to upgrade their military capabilities. What is the solution? There is a solution. This is as serious as anything we have confronted as a Nation, and we need to focus on it.

First of all, we must not treat the Communist Chinese regime as if they are a friendly regime. We must not treat them as normal trading partners like we would Italy, Belgium, or the Netherlands. We must treat them as a potential enemy of the people of the United States. They have earned that with the repression and murder that they have brought down on their own people, much less the aggression they are committing against their neighbors. That is number one.

We must classify them and understand what they are, and we should not, we should not in any way subsidize them, either through technology transfers or through an unfair trading relationship, or through Export-Import Bank guarantees to businessmen who would set up factories in Communist China.

We must support the freedom elements in China itself. Radio-Free Asia, the National Endowment for Democracy, we must support these people in every way we can, support those who are struggling for democracy in this vicious dictatorship, because they are the ones that will free the world from this terror as they themselves free themselves from oppression of the Beijing regime.

It is only when the people of China who love freedom and love democracy and love the United States, I might add, because they are our brothers and sisters in freedom and democracy, when they ascend to their rightful

place as a representative government, they will no longer be a threat to the United States, because the people of China are not our enemy, it is the dictatorship in China that is.

Finally, we must insist, and I hope every one of my colleagues and everyone who may be reading this or listening insists that the Cox report be made public. They should write and call their congressman and say that, why are the American people being left in the dark? The Cox report on Communist China must be made public so we can know what the Chinese have and what they have been able to steal from us, and what role American companies have played in preparing the Communist Chinese to kill Americans.

I come to the floor tonight to inform my colleagues and to inform the American people, and perhaps to mobilize them. I personally witnessed some things, by the way, that underscore the very points that I have been making.

In a recent fact-finding trip to Asia I overflew the Spratly Islands, and I could see that there, on Mischief Reef, a small sort of island like an atoll, because at low tide it is above water but at high tide it is below water, but it is an atoll about 150 miles from the Philippines, a country that is a democratic country that has very little defense. They are trying to spend their money on improving the life of their people.

But that little island or reef, that lagoon situation 150 miles from the Philippines, is over 800 miles from China, and the Communist Chinese are trying to bully the Philippines and the other nations of the Pacific into letting them, and not letting them but in acquiescing to them, in giving in to them and giving in to their claim that this is their territory.

I flew in an old C–130, a Philippine Air Force plane. As we went through the clouds and were heading towards this reef 150 miles off the Philippine mainland, as the clouds parted right above the reef, what did we see but three Chinese warships perched in this lagoon, armed to the teeth, helicopter decks there.

And what else did we see nearby but scores of Chinese workers who were so fervently constructing a concrete military outpost on this reef that even as we flew over, their acetylene torches continued to build this fortification on that reef.

Last week the Philippine military command called this Chinese buildup the greatest threat to the Philippines and America's interest in Asia since World War II. The Chinese are committing acts of aggression. They are willing to bully their neighbors. They are willing to murder their own people.

This chain of islands, this chain of islands that we are talking about, the Spratly Islands, and some, as I say, are under water at low tide, serve and will serve as bases for the Chinese communists. They will be like stationary aircraft carriers and helicopter aircraft carriers that will threaten the most important strategic areas, trading areas, and trading routes in the world.

Now we understand that the Chinese have an anti-ship missile that can be fired from the helicopters that will be stationed on these island bases. This missile that can be fired is a supersonic cruise-like missile, the SSN–22, the Sunburn missile they have achieved from Russia.

These missiles were developed specifically by the Russians to destroy American aircraft carriers and Aegis cruisers. They are essential to a sea-based antimissile system, the Aegis cruisers. Yet, if we have any type of antimissile system, they will be vulnerable now to the Communist Chinese and their Sunburn missiles that they may be able to fire and probably are setting up bases for deep into the Pacific Ocean, 800 miles off their own shore; in fact, right off the Philippine coast.

This is a threat to the United States as well as to the people of the Philippines and the people of the Pacific. A large hunk of the world's trade goes right through the straits between these islands and the Communist Chinese mainland.

Also to highlight what I am saying, and also to highlight why an antimissile defense system is so vital for the United States and our allies in the Pacific, in early December while I was in the region the Communist Chinese launched a mock missile attack exercise against Taiwan.

During this exercise, for the first time the Chinese targeted U.S. military bases in Japan, in Okinawa, and South Korea. We know what they targeted. We know what their game plan was. The game plan was to put their finger on American bases to kill tens of thousands of Americans, and they have also now the ability to use these bases in the Spratlys, and these missiles that the Russians have sold them, to kill tens of thousands of American sailors.

These bases that they have targeted for the first time, these are bases that are essential for the defense of Taiwan and essential for the peacekeeping in that whole region.

Later this week when the Pentagon releases its congressionally-mandated report on the Chinese missile threat to the region, it will become public knowledge that China is in the midst of a massive buildup of ballistic missiles that are intended to overwhelm Taiwan and American military outposts in the Pacific.

Ironically, the Chinese military has built its first military communication station in the South Pacific. Their first military communications station is located on the atoll of Tarawa. It is there where thousands of American marines perished, battling to turn the tide of Japanese militarism during World War II.

Mr. Speaker, the Pentagon has confirmed what I revealed on this floor last year, that China, with the help of U.S. corporations, has modernized its growing nuclear missile force so it can now strike at the continental United States from the mainland of China.

□ 2030

American people by the millions, our neighborhoods, our peoples are at great risk because American technology has been transferred to the Communist Chinese. It is still not too late, however, to defang this emerging dragon before it is ready to strike. But we must begin the process, and we must be realistic about what we are trying to do.

I am especially troubled by the President and the Secretary of State continuing to use the Communist Chinese and label the Communist Chinese as strategic partners. That has got to stop.

The unwillingness of the United States, as the leader of democracy and freedom in the world, to even object to the human rights abuses committed by the Beijing dictators and their henchmen against the people of China is little less than cowardice.

The ghoulish repression in China is being ignored so that our billionaires can reap huge profits in the short term, while putting our own people out of work in the long run and putting our country in great jeopardy. Then we excuse all of this with flippant phrases like, for example, when we complain about this, these human rights abusers, we are told, oh, do not worry. We have a multifaceted relationship with China.

Multifaceted. That is what our Secretary of State used to excuse the fact that we are not using the strength of our own moral courage to complain and to put the Chinese on notice that we will not put up with human rights abuses and aggression.

I cannot believe that a young Madeleine Albright, while she was fleeing the Nazi-occupied Europe, that threat to mankind in those days, I cannot believe that a young Madeleine Albright would have accepted that we cannot, that the United States could not be too harsh on Adolph Hitler and his goons because, after all, we had to preserve a multifaceted relationship with Adolph.

In fact, throughout the 1930's, the United States did try to appease Adolph Hitler's Germany and fascist Japan, despite the full knowledge of the atrocities that were being committed in Czechoslovakia and Poland and elsewhere to the Jews and the gypsies and others.

Appeasement did not work. Leaving the subject out of conversations did not work. It led to World War II, and it led to a massive loss of American lives.

There is a relationship between peace and freedom and democracy. What do

we need to do? Again, let us refrain from referring to the Communist Chinese as strategic partners. Let us label them what they are, potential enemies of the United States.

Let us develop a missile defense system for ourselves and our friends and our allies. Let us encourage those people who are struggling for democracy and dictatorships everywhere but especially in Communist China.

Let us today commit ourselves that the Cox committee report, which will disclose this treachery, this betrayal of American interests, this transfer of weapons of mass destruction that we develop with our own tax dollars, that this transferred technology, the upgrading of Communist Chinese rockets, and their capability of hitting the United States, that we need to have that verified for the American people.

The Cox committee report must be made public. I urge the White House to release the entire document. But I was outraged yesterday when the White House selectively declassified information in the Cox report and leaked it to the press. It leaked it in order to rebut the committee's recommendations which were aimed at preventing weapons of mass destruction and related technology from being sold to Communist China.

So here, instead of disclosing all the information, just little pieces of it was disclosed so that friendly members of the press could then use it to defeat the very purpose of the select committee that the gentleman from California (Mr. COX) headed.

Does this administration have no shame? Is there no level to which it will go? We are all in jeopardy. Then they play this kind of game. I do not care what administration it is. If a hostile power has been helped by American technology, and we know about it, and they know about it, the American people should know about it, and they should know the details. Every one of us should be insisting that this be done.

The Chinese must know that we are on the side of the Chinese people who long for democracy. But the Communist Chinese leadership must know that there are political and diplomatic consequences for the actions that they are taking and that we will be willing to stand strong, and that we are Americans, the same Americans that stood for freedom.

We may be losing the Save Private Ryan generation, those people who saved the world from the Nazis, those people we are so proud of. I lost my father recently who fought in World War II. But we are the same American people, and we stand for those same principles.

We are on the side of people who love freedom. We are not on the side of ghoulish dictators like the Nazis or the Communists or like the Chinese who make their deals with American billionaires. We need to act as a people, the freedom loving people of the world need to act together, and we as Americans need to lead them.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. DEUTSCH (at the request of Mr. GEPHARDT) for today and the balance of the week on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. JONES of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. Duncan) to revise and extend their remarks and include extraneous material:)

Mr. WELLER, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. YOUNG of Alaska, for 5 minutes, today.

Mr. GOODLING, for 5 minutes, today.

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 36 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 3, 1999, at 10 a.m.

A REPORT REQUIRED BY THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, January 6, 1999.

Hon. DENNIS HASTERT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Section 102(b) of the Congressional Accountability Act of 1995 (CAA) mandates a review and report on the applicability to the legislative branch of federal law relating to terms and conditions of employment and access to public services and accommodations.

Pursuant to section 102(b)(2) of the CAA, which provides that the presiding officers of the House of Representatives and the Senate shall cause each such report to be printed in the Congressional Record and each report shall be referred to the committees of the House of Representatives and the Senate with jurisdiction, the Board of Directors of the Office of Compliance is pleased to transit the enclosed report.

Sincerely yours,

GLEN D. NAGER,
Chair of the Board of Directors.

Enclosures.

OFFICE OF COMPLIANCE—SECTION 102(b) REPORT—REVIEW AND REPORT ON THE APPLICABILITY TO THE LEGISLATIVE BRANCH OF FEDERAL LAWS RELATING TO TERMS AND CONDITIONS OF EMPLOYMENT AND ACCESS TO PUBLIC SERVICES AND PUBLIC ACCOMMODATIONS

Prepared by the Board of Directors of the Office of Compliance Pursuant to Section 102(b) of the Congressional Accountability Act of 1995, 2 U.S.C. §1302(b), December 31, 1998

GLOSSARY OF ACRONYMS AND DEFINED TERMS

The following acronyms and defined terms are used in this Report and Appendices:

1996 Section 102(b) Report—the first biennial report mandated by §102(b) of the Congressional Accountability Act of 1995, which was issued by the Board of Directors of the Office of Compliance in December of 1996.

1998 Section 102(b) Report—this, the second biennial report mandated under §102(b) of the Congressional Accountability Act of 1995, which is issued by the Board of Directors of the Office of Compliance on December 31, 1998.

ADA—Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

ADEA—Age Discrimination in Employment Act of 1967, 29 U.S.C. §621 et seq.

ADR—Alternative Dispute Resolution.

AG—Attorney General.

Board—Board of Directors of the Office of Compliance.

CAA—Congressional Accountability Act of 1995, 2 U.S.C. §1301 et seq.

CAA laws—the eleven laws, applicable in the federal and private sectors, that are made applicable to the legislative branch by the CAA and are listed in section 102(a) of that Act.

CG—Comptroller General.

Chapter 71—Chapter 71 of title 5, United States Code.

DoL—Department of Labor.

EEO—Equal Employment Opportunity.

EEOC—Equal Employment Opportunity Commission.

EPA—Equal Pay Act provisions of the Fair Labor Standards Act, 29 U.S.C. §206(d).

EPPA—Employee Polygraph Protection Act of 1988, 29 U.S.C. §2001 et seq.

FLRA—Federal Labor Relations Authority.

FLSA—Fair Labor Standards Act of 1938, 29 U.S.C. §201 et seq.

FMLA—Family and Medical Leave Act of 1993, 29 U.S.C. §2611 et seq.

GAO—General Accounting Office.

GAOPA—General Accounting Office Personnel Act of 1980, 31 U.S.C. §731 et seq.

GC—General Counsel. Depending on the context, ''GC'' may refer to the General Counsel of the Office of Compliance or to the General Counsel of the GAO Personnel Appeals Board.

GPO—Government Printing Office.

Library—Library of Congress.

MSPB—Merit Systems Protection Board.

NLRA—National Labor Relations Act.
NLRB—National Labor Relations Board.
OC—Office of Compliance.
Office—Office of Compliance.
OPM—Office of Personnel Management.
OSH—Occupational Safety and Health.
OSHAct—Occupational Safety and Health Act of 1970, 29 U.S.C. §651 et seq.
PAB—Personnel Appeals Board of the General Accounting Office.
PPA—Portal-to-Portal Act of 1947, 29 U.S.C. §251 et seq.
RIF—Reduction in Force.
Section 230 Study—the study mandated by section 230 of the Congressional Accountability Act of 1995, which was issued by the Board of Directors of the Office of Compliance in December of 1996.
Title VII—Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.
ULP—Unfair Labor Practice.
USERRA—Section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. chapter 43.
VEOA—Veterans Employment Opportunities Act of 1998, Pub. Law No. 105–339.
WARN Act—Worker Adjustment and Retraining Notification Act, 29 U.S.C. §2101 et seq.

EXECUTIVE SUMMARY

In this Report, issued under section 102(b) of the Congressional Accountability Act of 1995 (''CAA''), the Board of Directors of the Office of Compliance reviews new statutes or statutory amendments enacted after the Board's 1996 Report was prepared, and recommends that certain other inapplicable laws should be made applicable to the legislative branch. In the second part of this Report, the Board reviews inapplicable provisions of the private-sector laws generally made applicable by the CAA (the ''CAA laws''),[1] and reports on whether and to what degree these provisions should be made applicable to the legislative branch. Finally, the Board reviews and makes recommendations on whether to make the CAA or another body of laws applicable to the General Accounting Office (''GAO''), the Government Printing Office (''GPO''), and the Library of Congress (''Library'').

Part I

After reviewing all federal laws and amendments relating to terms and conditions of employment or access to public accommodations and services passed since October, 1996, the Board concludes that no new provisions of law should be made applicable to the legislative branch. Two laws relating to terms and conditions of employment were amended, but substantial provisions of each law have already been made applicable to the legislative branch. However, the provisions of private-sector law which the Board identified in 1996 in its first Section 102(b) Report as having little or no application in the legislative branch have not yet been made applicable, and the Board's experience in the administration and enforcement of the Act in the two years since that first report was submitted to Congress has raised several new issues.

Based on the work of the 1996 Section 102(b) Report, the Board makes the following two sets of recommendations.

(1) The Board resubmits the recommendations made in the 1996 Section 102(b) Report that the following provisions of laws be applied to employing offices within the legislative branch: Prohibition Against Discrimination on the Basis of Bankruptcy (11 U.S.C. §525); Prohibition Against Discharge from Employment by Reason of Garnishment (15 U.S.C. §1674(a)); Prohibition Against Discrimination on the Basis of Jury Duty (28 U.S.C. §1875); Titles II and III of the Civil Rights Act of 1964 (42 U.S.C. §§2000(a) to 2000a–6, 2000b to 2000b–3) (prohibiting discrimination on the basis of race, color, religion, or national origin regarding the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation as defined in the Act).

(2) After further study of the whistleblower provisions of the environmental laws (15 U.S.C. §2622; 33 U.S.C. §1367; 42 U.S.C. §§300j–9(i), 5851, 6971, 7622, 9610) on which the Board had previously deferred decision, the Board now concludes that the better construction of these provisions is that they cover the legislative branch. However, because arguments could be made to the contrary, the Board recommends that language should be added to make clear that all entities within the legislative branch are covered by these provisions.

Based on its experience in the administration and enforcement of the Act and employee inquiry since the 1996 Report was issued, the Board makes the following two recommendations:

(1) Employee ''whistleblower'' protections, comparable to those generally available to employees covered by 5 U.S.C. §2302(b)(8), should be made applicable to the legislative branch[2] to further the institutional and public policy interest in preventing reprisal or intimidation for the disclosure of information which evidences fraud, waste, or abuse or a violation of applicable statute or regulation.

(2) The Board has found that Congress has created a number of special-purpose study commissions in which some or all members are appointed by the Congress. These commissions are not listed as employing offices under the CAA and, in some cases, such commissions may not be covered by other, comparable protections. The Board therefore believes that the coverage of such special-purpose study commissions should be clarified.

Part II

Having reviewed all the inapplicable provisions of the private-sector CAA laws,[3] the Board focuses its recommendations on enforcement,[4] the area in which Congress made the most significant departures from the private-sector provisions of the CAA laws.

The Board makes the following specific recommendations of changes to the CAA:

(1) grant the Office the authority to investigate and prosecute violations of section 207 of the CAA, which prohibits intimidation or reprisal for opposing any practice made unlawful by the Act or for participation in any proceeding under the Act;

(2) clarify that section 215(b) of the CAA, which makes applicable the remedies set forth in section 13(a) of the Occupational Safety and Health Act of 1970 (''OSHAct''), gives the General Counsel the authority to seek a restraining order in district court in the case of imminent danger to health or safety; and

(3) make the record-keeping and notice-posting requirements of the private-sector laws applicable under the CAA.

The Board also makes the following general recommendations:

(4) extend the benefits of the model alternative dispute resolution system created by the CAA to the private and federal sectors to provide them with the same efficient and effective method of resolving disputes that the legislative branch now enjoys; and

(5) grant the Office the other enforcement authorities exercised by the agencies which implement those CAA laws for the private sector in order to ensure that the legislative branch experiences the same burdens as the private sector.

The Board further suggests that, to realize fully the goals of the CAA—to assure that ''congressional employees will have the civil rights and social legislation that has ensured fair treatment of workers in the private sector'' and to ''ensure that Members of Congress will know firsthand the burdens that the private sector lives with''[5]—all inapplicable provisions of the CAA laws should, over time, be made applicable.

Part III

The Board identifies three principal options for coverage of the three instrumentalities:

(1) CAA Option—Coverage under the CAA, including the authority of the Office of Compliance as it administers and enforces the CAA (as the CAA would be modified by enactment of the recommendations made in Part II of this Report.)

(2) Federal-Sector Option—Coverage under the statutory and regulatory regime that applies generally in the executive branch of the federal sector, including the authority of executive-branch agencies as they administer and enforce the laws in the federal sector.

(3) Private-Sector Option—Coverage under the statutory and regulatory regimes that apply generally in the private sector, including the authority of the executive-branch agencies as they administer and enforce the laws in the private sector.[6]

The Board compared these options with the current regimes at GAO, GPO, and the Library, identifying the significant effects of applying each option.[7]

The Board concludes that coverage under the private-sector regime is not the best of the options it considered. Members Adler and Seitz recommend that the three instrumentalities be covered under the CAA, with certain modifications, and Chairman Nager and Member Hunter recommend that the three instrumentalities be made fully subject to the laws and regulations generally applicable in the executive branch of the federal sector.

[1] This report uses the term ''CAA laws'' to refer to the eleven laws, applicable in the federal and private sectors, made applicable to the legislative branch by the CAA and listed in section 102(a) of that Act.

[2] Such protections are already generally available to employees at GAO and GPO.

[3] The table of the private-sector provisions of the CAA laws not made applicable by the CAA, set forth in Appendix I to this Report, details these exceptions.

[4] The private-sector enforcement authority tables, set forth in Appendix II to this Report, summarize the enforcement authorities afforded to the implementing executive-branch agencies under the private-sector laws made applicable by the CAA in those areas in which the CAA does not already grant enforcement authority to the Office.

[5] 141 Cong. Rec. S441 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[6] The coverage described in each of the three options would supersede only provisions of law which provide substantive rights analogous to those provided under the CAA or which establish analogous administrative, judicial, or rulemaking processes to implement, remedy, or enforce such rights. Substantive rights under federal-sector or other laws having no analogue in the CAA, and processes used to implement, remedy, or enforce such rights, would not be affected by the coverage described in the three options.

[7] The comparisons, which are presented in detail in tables set forth in Appendix III to this Report, cover the CAA, the laws made applicable by the CAA, analogous laws that apply in the federal sector and the private sector, and mechanisms for applying and enforcing them.

The analysis and conclusions in this report are being made solely for the purposes set forth in section 102(b) of the Congressional Accountability Act of 1995. Nothing in this report is intended or should be construed as a definitive interpretation of any factual or legal question by the Office of Compliance or its Board of Directors.

The Board of Directors of the Office of Compliance gratefully acknowledges the contributions of Lawrence B. Novey and Eugenie N. Barton for their work on this report.

SECTION 102(b) REPORT

INTRODUCTION

Congress enacted the Congressional Accountability Act of 1995 (''CAA'') so that there would no longer be ''one set of protections for people in the private sector whose employees are protected by the employment, safety and civil rights laws, but no protection, or very little protection, for employees on Capitol Hill,''[8] and to ''ensure that Members of Congress will know firsthand the burdens that the private sector lives with.''[9] Thus, the CAA provides employees of the Congress and certain congressional instrumentalities with the protections of specified provisions of eleven federal employment, labor, and public access laws. (This Report refers to those laws as the ''CAA laws'').[10] Further, the Act generally applies the same substantive provisions and judicial remedies of the CAA laws as govern employment and public access in the private sector to ensure that Congress would live under the same laws as the rest of the nation's citizens.

However, the Act departed from the private-sector model in a number of significant respects. New institutional, adjudicatory, and rulemaking models were created. Concerns about subjecting itself to regulation, enforcement or administrative adjudication by executive-branch agencies led Congress to establish an independent administrative agency in the legislative branch, the Office of Compliance (the ''OC'' or the ''Office''), to administer and enforce the Act. The Office's administrative and enforcement authorities differ significantly from those in place at the executive-branch agencies which administer and enforce the eleven CAA laws for the private sector and/or the federal-sector. Most notably, the Act did not grant the OC independent investigation and prosecutorial authority comparable to that of analogous executive-branch agencies. Instead, the Act created new, confidential administrative dispute resolution procedures, including compulsory mediation, as a prerequisite to access to the courts. Finally, the Act granted the OC limited substantive rulemaking authority. Substantive regulations under the CAA are adopted by the Board of Directors (the ''Board''). The House and Senate retained the right to approve those regulations, but the CAA provides that, in the absence of Board action and congressional approval, the applicable private-sector regulations or federal-sector regulations apply, with one exception involving labor-management relations.[11]

In terms of substantive law, the Act did not include some potentially applicable laws and made applicable only certain provisions of the CAA laws. Moreover, the Act applied the Federal Labor-Management Relations Act, 5 U.S.C. chapter 71 (''Chapter 71''), rather than the private-sector model, and gave the Board authority to create further exclusions from labor-management coverage if the Board found such exclusions necessary because of conflict of interest or Congress's constitutional responsibilities.[12]

Finally, the CAA was not made applicable throughout the legislative branch. The CAA only partially covered the three largest instrumentalities of the Congress, the General Accounting Office (''GAO''), the Government Printing Office (''GPO''), and the Library of Congress (the ''Library''), which were already covered in large part by a variety of different provisions of federal-sector laws, administered by the three instrumentalities themselves and/or executive-branch agencies.

Congress left certain areas to be addressed later, after further study and recommendation, as provided for by sections 102(b) and 230 of the Act. To promote the continuing accountability of Congress, section 102(b) of the CAA required the Board to review biennially all provisions of federal law and regulations relating to the terms and conditions of employment and access to public services and accommodations; to report on whether or to what degree the provisions reviewed are applicable or inapplicable to the legislative branch; and to recommend whether those provisions should be made applicable to the legislative branch. Additionally, section 230 of the CAA mandated a study of the status of the application of the eleven CAA laws to GAO, GPO, and the Library, to ''evaluate whether the rights, protections, and procedures, including administrative and judicial relief, applicable to [these instrumentalities] . . . are comprehensive and effective . . . includ[ing] recommendations for any improvements in regulations or legislation.''[13] These reports were to review aspects of legislative-branch coverage which required further study and recommendation to the Congress once the OC and its Board had gained experience in the administration of the Act and Congress had gained experience in living under the Act.

1996 Section 102(b) Report. In December of 1996, the Board completed its first biennial report mandated under section 102(b) of the CAA (the ''1996 Section 102(b) Report''), which reviewed and analyzed the universe of federal law relating to labor, employment and public access, made the Board's initial recommendations, and set priorities for future reports.[14] To conduct its analysis, the Board organized the provisions of federal law in tabular form according to the kinds of entities to which they applied, and systematically analyzed whether and to what extent they were already applicable to the legislative branch or whether the legislative branch was already covered by other comparable legislation. This generated four tables: the first listed and reviewed those provisions of law generally applicable in the private sector and/or in state and local government that also are already applicable to entities in the legislative branch, a category which included nine of the laws made applicable by the CAA. The second table contained and reviewed those provisions of law that apply only in the federal sector, a category which included the two exclusively federal-sector laws applied to the legislative branch by the CAA. The third table listed and reviewed five private-sector and/or state- and local-government provisions of law that do not apply in the legislative branch, but govern areas in which Congress has already applied to itself other, comparable provisions of law. The last table listed and reviewed thirteen other private-sector laws which do not apply or have only very limited application in the legislative branch.

The Board then turned to its task of recommending which statutes should be applied to the legislative branch. In light of the large body of statutes that the Board had identified and reviewed, the Board determined that it could not make recommendations concerning every possible change in legislative-branch coverage, for ''that would be the work of many years and many hands.''[15] The Board further recognized that biennial nature of report, as well as the history and structure of the CAA, argued ''for accomplishing such statutory change on an incremental basis.''[16]

In setting its priorities for making recommendations from among the categories of statutes that the Board had identified for analysis and review, the Board sought to mirror the priorities of the CAA. Because legislative history suggested that highest priority of the CAA was the application of private-sector protections to congressional employees where those employees had little or no protection, the Board focused its recommendations in its first report on applying the private-sector laws not currently applicable to the legislative branch. The Board determined that, because of the CAA's focus on coverage of the Congress under private-sector laws, the Board's next priority should be to review the inapplicable provisions of the private-sector laws generally made applicable by the CAA.

The laws detailed in the other two tables were given a lower priority. Because determining whether and to what degree federal-sector provisions of law should be made applicable to the legislative branch ''involve[s], in part, weighing the merits of the protections afforded by the CAA against those provided under other statutory schemes, the Board determined that, in . . . its first year of administering the CAA, [the Board determined that] it would be premature for the

---

[8] 141 Cong. Rec. S622 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[9] *Id.* at S441.

[10] The nine private-sector laws made applicable by the CAA are: the Fair Labor Standards Act of 1938 (29 U.S.C. §201 et seq.) (''FLSA''), Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.) (''Title VII''), the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) (''ADA''), the Age Discrimination in Employment Act of 1967 (29 U.S.C. §621 et seq.) (''ADEA''), the Family and Medical Leave Act of 1993 (29 U.S.C. §2611 et seq.) (''FMLA''), the Occupational Safety and Health Act of 1970 (29 U.S.C. §651 et seq.) (''OSHAct''), the Employee Polygraph Protection Act of 1988 (29 U.S.C. §2001 et seq.) (''EPPA''), the Worker Adjustment and Retraining Notification Act (29 U.S.C. §2101 et seq.) (''WARN Act''), and section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 (''USERRA''). The two federal-sector laws made applicable by the CAA are: Chapter 71 of title 5, United States Code (relating to federal service labor-management relations) (''Chapter 71''), and the Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.).

[11] With respect to the offices listed in §220(e)(2) of the CAA, the application of rights under Chapter 71 shall become effective only after regulations regarding those offices are adopted by the Board and approved by the House and Senate. *See* §§220(f)(2), 411, of the CAA.

[12] *See* §220(e) of the CAA.

[13] 2 U.S.C. §1371(c). Originally, the Administrative Conference of the United States was charged with carrying out the study and making recommendations for improvements in the laws and regulations governing the instrumentalities, but when the Conference lost its funding, the responsibility for the study was transferred to the Board.

[14] Section 102(b) Report: Review and Report of the Applicability to the Legislative Branch of Federal Law Relating to Terms and Conditions of Employment and Access to Public Services and Accommodations (Dec. 31, 1996).

[15] *Id.* at 3.

[16] *Id.*

Board to make such comparative judgments.''[17] Additionally, among the patchwork of federal-sector laws, which had come to cover some of the instrumentalities of the Congress, were laws the effectiveness and efficiency of which were then (and remain) under review by the Executive Branch. Similarly, the Board deferred consideration of laws that were not applicable, but where the Congress had applied a comparable provision, because the Board concluded that ''as the Board gains rulemaking and adjudicatory experience in the application of the CAA to the legislative branch, the Board will be better situated to formulate recommendations about appropriate changes in those different statutory schemes.''[18] In sum, the Board determined to follow the apparent priorities of the CAA itself, turning first to the application of currently inapplicable private-sector laws, and next in this, its second Section 102(b) Report, reviewing the omissions in coverage of the laws made applicable by the CAA and making recommendations for change.

Section 230 Study. At the same time as it completed its first report under section 102(b), the Board in its study mandated under section 230 of the CAA (the ''Section 230 Study'')[19] analyzed the application of labor, employment and public access laws to GAO, GPO, and the Library, evaluating the statutory and regulatory regimes in place at these instrumentalities to determine whether they were ''comprehensive and effective.''[20] To do so, the Board had to establish a point of comparison, and determined that the CAA itself was the benchmark intended by Congress. Further, the Board gave content to the terms ''comprehensive and effective,'' defining those terms according to the Board's statutory charge to examine the adequacy of ''rights, protections, and procedures, including administrative and judicial relief.''[21] Four categories were examined—substantive law; administrative processes and relief; judicial processes and relief; and substantive regulations—to determine whether the regimes at the instrumentalities were ''comprehensive and effective'' according to: (1) the nature of the substantive rights and protections afforded to employees, both as guaranteed by statute and as applied by rules and regulations; (2) the adequacy of administrative processes, including: (*a*) adequate enforcement mechanisms for monitoring compliance and detecting and correcting violations, and (*b*) a fair and independent mechanism for informally resolving or, if necessary, investigating, adjudicating, and appealing disputes; (3) the availability and adequacy of judicial processes and relief; and (4) the adequacy of any process for issuing substantive regulations specific to an instrumentality, including proposal and adoption by an independent regulatory authority under appropriate statutory criteria.[22]

The Board concluded that ''overall, the rights, protections, procedures and [judicial and administrative] relief afforded to employees'' were ''comprehensive and effective when compared to those afforded to other legislative-branch employees under the CAA,'' but pointed out several gaps and a number of significant differences in coverage.[23] However, the Board explained that it was ''premature'' to make recommendations at that ''early stage of its administration of the Act,''[24] as to whether changes were necessary in the coverage applicable in these instrumentalities. The Board further stated that its ongoing reporting requirement under section 102(b) argued for accomplishing such statutory change on an incremental basis as the Board gained experience in the administration of the CAA. The conclusions in the Section 230 Study thus properly would serve at the appropriate time as ''the foundation for recommendations for change'' in a subsequent report under section 102(b) of the CAA.[25]

The time is now ripe for the Board to make recommendations for change in the coverage of the three instrumentalities which are appropriately included as part of this Report. The Board has had over three years' experience in the administration of the rights, protections and procedures made applicable to the legislative branch by the CAA. This experience in administering and enforcing the CAA and assessing its strengths and weaknesses in making recommendations respecting changes in the CAA to make the Act comprehensive and effective with respect to those parts of the legislative branch already covered under the CAA has augmented the structural foundation set down in the Section 230 Study. Thus, the Board has both the substantive and experiential bricks and mortar to model the options for changes in the regimes covering the three largest instrumentalities. Moreover, procedural rulemaking to extend the Procedural Rules of the Office of Compliance to cover proceedings commenced by GAO and Library employees alleging violations of sections 204–207 of the CAA raised questions as to the current status of substantive and procedural coverage of the instrumentalities under the Act, demonstrating an immediate need for Congress to clarify the relationship between the CAA and the instrumentalities.

Accordingly, this Report has three parts. In the first, the Board fulfills its general responsibility under section 102(b), by presenting a review of laws enacted after the 1996 Section 102(b) Report and recommendations as to which laws should be made applicable to the legislative branch. The second part analyzes which private-sector provisions of the CAA laws do not apply to the legislative branch and which should be made applicable. The third part reviews current coverage of GAO, GPO, and the Library of Congress under the laws made applicable by the CAA and presents the Board's recommendations for change.

I. REVIEW OF LAWS ENACTED AFTER THE 1996 SECTION 102(b) REPORT, AND REPORT RECOMMENDING THAT CERTAIN OTHER INAPPLICABLE LAWS SHOULD BE MADE APPLICABLE

A. Background

Section 102(b) of the CAA directs the Board of Directors of the Office of Compliance to—review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations. And, on the basis of this review—beginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch.

In preparing this part of the 1998 Section 102(b) Report, all federal laws and amendments passed since October 1996 were reviewed to identify any new laws and changes in existing laws relating to terms and conditions of employment or access to public accommodations and services. The results of that review are reported here.[26] Further, in this part of the current Section 102(b) Report, the Board addresses the question of coverage of the legislative branch under the environmental whistleblower provisions which the Board deferred in the previous, 1996 Report. The Board also notes that the provisions of private-sector law which the Board identified in that Section 102(b) Report as having little or no application in the legislative branch have not yet been made applicable, and the Board therefore also resubmits its recommendations regarding those provisions here. Based on experience in the administration and enforcement of the Act in the two years since that first report was submitted to Congress, the Board addresses two other areas—whistleblower protection and coverage of special study commissions—which, due to employee inquiry, the Board believes merit attention now.

B. Review and Report on Laws Passed Since October 1996

With two exceptions, the Congress did not pass a new law or significantly amend an existing law relating to terms and conditions of employment or access to public accommodations since the 1996 Section 102(b) Report. The first exception is the Postal Employees Safety Enhancement Act, Pub. L. No. 105–241, which amends the OSHAct to apply it to the United States Postal Service. The second exception is the Veterans Employment Opportunities Act of 1997 (''VEOA''), Pub. L. No. 105–339, which provides for expanded veterans' preference eligibility and retention in the executive branch and for those legislative-branch employees who are in the competitive service.

Both the OSHAct and the VEOA already apply to a substantial extent to the legislative branch. The OSHAct was made generally applicable to the legislative branch by section 215 of the CAA, and, in Parts II and III of this 1998 Section 102(b) Report, the Board has reviewed the extent to which specific provisions of the OSHAct apply within the legislative branch, and has made recommendations.

---

[17] *Id*. at 4.

[18] *Id*.

[19] Section 230 Study: Study of Laws, Regulations, and Procedures at the General Accounting Office, the Government Printing Office and the Library of Congress (Dec. 1996) at iii.

[20] 2 U.S.C. §1371(c).

[21] *Id*.

[22] Section 230 Study at ii.

[23] *Id*.

[24] *Id*.

[25] *Id*.

[26] As in the 1996 Section 102(b) Report, excluded from consideration were those laws that, although employment-related, (1) are specific to narrow or specialized industries or types of employment not found in the legislative branch (*e.g.*, employment in maritime or mining industries, or the armed forces, or employment in a project funded by federal grants or contracts); or (2) establish government programs of research, data-collection, advocacy, or training, but do not establish correlative rights and responsibilities for employees and employers (*e.g.*, statutes authorizing the Women's Bureau or the Bureau of Labor Statistics); or (3) authorize, but do not require, that employers provide benefits to employees, (*e.g.* so-called ''cafeteria plans'' authorized by 26 U.S.C. §125).

As to the VEOA, selected provisions of the Act apply to employees meeting the definition of ''covered employee'' under the CAA, excluding those employees whose appointment is made by a Member or Committee of Congress, and the VEOA assigns responsibility to the Board to implement veterans' preference requirements as to these employees. It is premature for the Board now, two months after enactment of the VEOA, to express any views about the extent to which veterans' preference rights do, or should, apply in the legislative branch, but the Board may decide to do so in a subsequent biennial report under section 102(b).

C. Report and Recommendations Respecting Laws Addressed in the 1996 Section 102(b) Report

1. Resubmission of Earlier Recommendations

The Board of Directors resubmits the following recommendations made in the 1996 Section 102(b) Report:

(a) Prohibition against discrimination on the basis of bankruptcy (11 U.S.C. §525). Section 525(a) provides that ''a governmental unit'' may not deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under the bankruptcy statutes. This provision currently does not apply to the legislative branch. For the reasons stated in the 1996 Section 102(b) Report, the Board reports that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

(b) Prohibition against discharge from employment by reason of garnishment (15 U.S.C. §1674(a)). Section 1674(a) prohibits discharge of any employee because his or her earnings ''have been subject to garnishment for any one indebtedness.'' This section is limited to private employers, so it currently has no application to the legislative branch. For the reason set forth in the 1996 Section 102(b) Report, the Board has determined that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

(c) Prohibition against discrimination on the basis of jury duty (28 U.S.C. §1875). Section 1875 provides that no employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States. This section currently does not cover legislative-branch employment. For the reason set forth in the 1996 Section 102(b) Report, the Board has determined that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

(d) Titles II and III of the Civil Rights Act of 1964 (42 U.S.C. §§2000a to 2000a–6, 2000b to 2000b–3). These titles prohibit discrimination or segregation on the basis of race, color, religion, or national origin regarding the goods, services, facilities, privileges, advantages, and accommodations of ''any place of public accommodation'' as defined in the Act. Although the CAA incorporated the protections of titles II and III of the ADA, which prohibit discrimination on the basis of disability with respect to access to public services and accommodations, it does not extend protection against discrimination based upon race, color, religion, or national origin with respect to access to public services and accommodations. For the reasons set forth in the 1996 Section 102(b) Report, the Board has determined that the rights and protections afforded by titles II and III of the Civil Rights Act of 1964 against discrimination with respect to places of public accommodation should be applied to employing offices within the legislative branch.

2. Employee Protection Provisions of Environmental Statutes

(a) Report. The Board adds a recommendation respecting coverage under the employee protection provisions of the environmental protection statutes. The employee protection provisions in the environmental protection statutes (15 U.S.C. §2622; 33 U.S.C. §1367; 42 U.S.C. §§300j–9(i), 5851, 6971, 7622, 9610) generally protect an employee from discrimination in employment because the employee commences proceedings under the applicable statutes, testifies in any such proceeding, or assists or participates in any way in such a proceeding or in any other action to carry out the purposes of the statutes. In the 1996 Report the Board reviewed and analyzed these provisions but ''reserve[d] judgement on whether or not these provisions should be made applicable to the legislative branch at this time'' because, among other things, it was ''unclear to what extent, if any, these provisions apply to entities in the legislative branch.'' [27]

Upon further review, applying the principles stated in the 1996 Report,[28] the Board has now concluded that there is sound reason to construe these provisions as applicable to the legislative branch. However, because it is possible to construe certain of these provisions as inapplicable, the Board recommends that Congress should adopt legislation clarifying that the employee protection provisions in the environmental protection statutes apply to all entities within the legislative branch.

(b) Recommendation: Legislation should be adopted clarifying that the employee protection provisions in the environmental protection statutes apply to all entities within the legislative branch.

D. Report and Recommendations in Areas Identified by Experience

1. Employee ''Whistleblower'' Protection

(a) Report. Civil service law [29] provides broad protection to ''whistleblowers'' in the executive branch and at GAO and GPO, but these provisions do not apply otherwise in the legislative branch. Employees subject to these provisions are generally protected against retaliation for having disclosed any information the employee reasonably believes evidences a violation of law or regulation, gross mismanagement or abuse of authority, or substantial danger to public health or safety. (In the private sector, whistleblowers are also often protected by provisions of specific federal laws.[30]) The Office has received a number of inquiries from congressional employees concerned about protection against possible retaliation by an employing office for the disclosure of what the employee perceives to be such information. The absence of specific statutory protection such as that provided under 5 U.S.C. §2302(b)(8) chills the disclosure of such information. Granting ''whistleblower'' protection could significantly improve the rights and protections afforded to legislative-branch employees in an area fundamental to the institutional integrity of the legislative branch.

(b) Recommendation: Congress should provide whistleblower protection to legislative-branch employees comparable to that provided to executive-branch employees under 5 U.S.C. §2302(b)(8).

2. Coverage of Special-Purpose Study Commissions

(a) Report. The Office has been asked questions respecting the coverage of certain special-purpose study commissions that include members appointed by Congress or by officers of Congressional instrumentalities. Such commissions are not expressly listed in section 101(9) of the CAA in the definition of ''employing offices'' covered under the CAA, and in some cases it is unclear whether commission employees are covered under rights and protections comparable to those granted by the CAA. The Board believes that the coverage of such special-purpose study commissions should be clarified.

(b) Recommendation: Congress should specifically designate the coverage under employment, labor, and public access laws that it intends, both when it creates special-purpose study commissions that include members appointed by Congress or by legislative-branch officials, and for such commissions already in existence.

II. REVIEW OF INAPPLICABLE PRIVATE-SECTOR PROVISIONS OF CAA LAWS AND REPORT ON WHETHER THOSE PROVISIONS SHOULD BE MADE APPLICABLE

A. Background

In its first Section 102(b) Report,[31] the Board determined that it should, in future section 102(b) reports, proceed incrementally to review and report on currently inapplicable provisions of law, and recommend whether these provisions should be made applicable, as experience was gained in the administration and enforcement of the Act. The next report to Congress would be an ''in depth study of the specific exceptions created by Congress'' [32] from the nine private-sector laws made applicable by the CAA [33] because the application of these private-sector laws was the highest priority in enacting the CAA.[34]

Part II of this second Section 102(b) Report considers these specific exceptions,[35] focusing on enforcement, the area in which Congress made the most significant departures from the private-sector provisions of the CAA laws. In this part of the Report, the Board reviews the remedial schemes provided under the CAA with respect to the nine private-sector laws made applicable, evaluates their efficacy in light of three years of experience in the administration and enforcement of the Act, and compares these CAA remedial schemes with those authorities provided for the vindication of the CAA

[27] 1996 Section 102(b) Report at 6.

[28] The Board stated in the 1996 Section 102(b) Report: ''The Board has generally followed the principle that coverage must be clearly and unambiguously stated.'' Section 102(b) Report at 2. Furthermore, as to private-sector provisions, the Board stated: ''Because a major goal of the CAA was to achieve parity with the private sector, the Board has determined that, if our review reveals no impediment to applying the provision in question to the legislative branch, it should be made applicable.'' *Id.* at 4–5.

[29] *See, e.g.*, 5 U.S.C. §2302(b)(8).

[30] *See, e.g.*, 15 U.S.C. §2622; 33 U.S.C. §1367; 42 U.S.C. §§300j–9(i), 5851, 6971, 7622, 9610 (the employee protection provisions of various environmental statutes), discussed on page 13 above. Other whistleblower protection may be provided through state statute or state common law, which are outside the scope of this Report.

[31] *See* 1996 section 102(b) report.

[32] *Id.* at 4.

[33] The private-sector laws made applicable by the CAA are listed in note 10, at page 5, above.

[34] *See* 1996 section 102(b) report at 3.

[35] The table of significant provisions of the private-sector CAA laws not yet made applicable by the CAA, set forth in Appendix I to this Report, details these exceptions.

laws in the private sector.[36] Based on this review and analysis and the Board's statutory charge to recommend whether inapplicable provisions of law ''should be made applicable to the legislative branch,''[37] the Board makes a number of recommendations respecting the application of these currently inapplicable enforcement provisions.

The statute provides no direct guidance to the Board in recommending whether a provision ''should be made applicable.''[38] The Board has therefore made these recommendations in light of its experience and expertise with respect to both the application of these laws to the private sector[39] and the administration and enforcement of the Act, as well as its understanding of the general purposes and goals of the Act. In particular, the Board intends that these recommendations should further a central goal of the CAA to create parity with the private sector so that employers and employees in the legislative branch would experience the same benefits and burdens as the rest of the nation's citizens.

B. Recommendations

The Board makes the following three specific recommendations of changes to the CAA respecting the application of these currently inapplicable enforcement provisions:[40]

1. Grant the Office the authority to investigate and prosecute violations of §207 of the CAA, which prohibits intimidation and reprisal

The Board recommends that the Office should be granted enforcement authority with respect to section 207 of the CAA because of the strong institutional interest in protecting employees against intimidation or reprisal for the exercise of the rights provided by the CAA or for participation in the CAA's processes. Investigation and prosecution by the Office would more effectively vindicate those rights, dispel the chilling effect that intimidation and reprisal create, and protect the integrity of the Act and its processes.

As the tables indicate, enforcement authority with respect to intimidation or reprisal is provided to the agencies that administer and enforce the CAA laws in the private sector.[41] In contrast, under the CAA, the rights and protections provided by section 207 are vindicated only if the employee, after counseling and mediation, pursues his or her claim before a hearing officer or in district court. Experience in the administration and enforcement of the CAA argues that the Office should be granted comparable authority to that exercised by the executive-branch agencies that implement the CAA laws in the private sector. Covered employees who have sought information from the Office respecting their substantive rights under the Act and the processes available for vindicating these rights have expressed concern about their exposure in coming forward to bring a claim, as well as a reluctance and an inability to shoulder the entire litigation burden without the support of agency investigation or prosecution. Moreover, employees who have already brought their original dispute to the counseling and mediation processes of the Office and then perceive a reprisal for that action may be more reluctant to use once again the very processes that led to the claimed reprisal.

Whatever the reasons a particular employee does not bring a claim of intimidation or reprisal, such unresolved claims threaten to undermine the efficacy of the CAA. Particularly detrimental is the chilling effect on other employees who may wish to bring a claim or who are potential witnesses in other actions under the CAA. Without effective enforcement against intimidation and reprisal, the promise of the CAA that ''congressional employees will have the civil rights and social legislation that ensure fair treatment of workers in the private sector''[42] is rendered illusory.

Therefore, in order to preserve confidence in the Act and to avoid chilling legislative branch-employees from exercising their rights or supporting others who do, the Board has concluded that the Congress should grant the Office the authority to investigate and prosecute allegations of intimidation or reprisal as they would be investigated and prosecuted in the private sector by the implementing agency. Enforcement authority can be exercised in harmony with the alternative dispute resolution process and the private right of action provided by the CAA, and will further the purposes of section 207 of the Act.

2. Clarify that §215(b) of the CAA, which makes applicable the remedies set forth in §13(a) of the OSHAct, gives the General Counsel the authority to seek a restraining order in district court in case of imminent danger to health or safety

With respect to the substantive provisions for which the Office already has enforcement authority,[43] the Board's experience to date has illuminated a need to revisit only one area, section 215(b) of the CAA which provides the remedy for a violation of the substantive provisions of the OSHAct made applicable by the CAA.[44] Under section 215(b) the remedy for a violation of the CAA shall be a corrective order, ''including such order as would be appropriate if issued under section 13(a)'' of the OSHAct. Among other things, the OSHAct authorizes the Secretary of Labor to seek a temporary restraining order in district court in the case of imminent danger. The General Counsel of the Office of Compliance, who enforces the OSHAct provisions as made applicable by the CAA, takes the position that section 213(b), by its terms, gives him the same standing to petition the district court for a temporary restraining order in a case of imminent danger as the Labor Department has under the OSHAct. However, it has been suggested that the language of section 213(b) does not clearly provide that authority.

Although it has not yet proven necessary to resolve a case of imminent danger by means of court order because compliance with the provisions of section 5 of the OSHAct has been achieved through other means,[45] the express authority to seek preliminary injunctive relief is essential to the Office's ability promptly to eliminate all potential workplace hazards. If it should become necessary to prosecute a case of imminent danger by means of district court order, action must be swift and sure. Therefore, the Board recommends that the CAA be amended to clarify that the General Counsel has the standing to seek a temporary restraining order in federal district court and that the court has jurisdiction to issue the order.

3. Make applicable the record-keeping and notice-posting requirements of the private-sector CAA laws

Experience in the administration of the Act leads the Board to recommend that all currently inapplicable record-keeping and notice-posting provisions be made applicable under the CAA. The Board recommends that the Office be granted the authority to require that records be kept and notices posted in the same manner as required by the agencies that enforce the provisions of law made applicable by the CAA in the private sector.

As the tables illustrate,[46] most of the laws made generally applicable by the CAA authorize the enforcing agency to require the keeping of pertinent records and the posting of notices in the work place. Experience has demonstrated that where employing offices have voluntarily kept records, these records have greatly assisted in the speedy resolution of disputed matters. Especially where the law has not been violated, employing offices can more readily demonstrate compliance if adequate records have been made and preserved. Moreover, based upon its experience and expertise, the Board has concluded that effective record keeping is not only beneficial to the employer, but in many cases is necessary to the effective vindication of the rights of employees.

Additionally, living with the same record-keeping and notice-posting requirements as apply in the private sector will give Congress the practical knowledge of the costs and benefits of these requirements. Congress will be

[36] The private-sector enforcement authority tables, set forth in Appendix II to this Report, summarize the enforcement authorities afforded to the implementing executive-branch agencies under the private-sector laws made applicable by the CAA in those areas in which the CAA does not already grant enforcement authority to the Office.

[37] Section 102(b)(2)(B) of the CAA.

[38] Section 102(b) directs the Board to: ''review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations.'' On the basis of this review, section 102(b) requires the Board biennially to: ''report on (A) whether or to what degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch.''

[39] Section 301(d)(1) of the CAA requires that ''[m]embers of the Board shall have training or experience in the application of the rights, protections, and remedies under one or more of the laws made applicable by [the CAA].''

[40] The Board also notes that several problems have been encountered in the enforcement of settlements requiring on-going or prospective action by a party. The Board does not, at this time, recommend legislative change because the Executive Director, as part of her plenary authority to approve settlements, can require a self- enforcing provision in certain cases and will now do so, as appropriate.

[41] The only exception is the WARN Act, which has no enforcement authorities.

[42] 141 Cong. Rec. S441 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[43] The CAA provides enforcement authority with respect to two private-sector laws, the OSHAct and the provisions of the ADA relating to public services and accommodations. The CAA adopts much of the enforcement scheme provided under the OSHAct; it creates an enforcement scheme with respect to the ADA which is analogous to that provided under the private-sector provisions but is sui generis.

[44] Section 215(b) of the CAA reads as follows: ''Remedy.—The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. §662(a)).''

[45] *See generally* General Counsel of the Office of Compliance, Report on Safety & Health Inspections Conducted Under the Congressional Accountability Act (Nov. 1998).

[46] *See generally* the tables of enforcement authorities set forth in Appendix II to this Report.

able to determine experientially whether the benefits of each record-keeping and notice-posting requirement outweigh the burdens. Application of the record-keeping and notice-posting requirements will thus achieve one of the primary goals of the CAA, that the legislative branch live under the same laws as the rest of the nation's citizens.

In addition to these specific recommendations, the Board makes the following two general recommendations which derive from the comparison between the CAA's remedial schemes and those authorities provided for the administration and enforcement of the CAA laws in the private sector:

4. Extend the benefits of the model alternative dispute resolution system created by the CAA to the private and the federal sectors

The CAA largely replaces the enforcement schemes used to administer and enforce the CAA laws in the private sector with a model alternative dispute resolution system that mandates counseling and mediation prior to pursuing a claim before a hearing officer or in district court. Experience with this system has shown that most disputes under the CAA are resolved by means of counseling and mediation. There are substantial advantages in resolving disputes in their earliest stages, before litigation. Positions have not hardened; liability, if any, is generally at a minimum; and the maintenance of amicable workplace relations is most likely. Therefore, the Board recommends that Congress extend the alternative dispute resolution system created by the CAA to the private and federal sectors so that these sectors will have parity with the Congress in the use of this effective and efficient method of resolving disputes. The Board believes that the use of this alternative dispute resolution system can be harmonized with the administrative and enforcement regimes in place in both the federal and private sectors.

5. Grant the Office the other enforcement authorities exercised by the agencies that implement the CAA laws for the private sector

To further the goal of parity, the Board also recommends that Congress grant the Office the remaining enforcement authorities that executive-branch agencies utilize to administer and enforce the provisions of law made applicable by the CAA in the private sector. As the tables show, the implementing agencies have investigatory and prosecutorial authorities with respect to all of the private-sector CAA laws, except the WARN Act.[47] Based on the experience and expertise of Members of the Board, granting the Office the same enforcement authorities as the agencies that administer and enforce these substantive provisions in the private sector would make the CAA more comprehensive and effective. The Office can harmonize the exercise of investigatory and prosecutorial authorities with the use of the model alternative dispute resolution system that the CAA creates. By taking these steps to live under full agency enforcement authority, the Congress will strengthen the bond that the CAA created between the legislator and the legislated: ''This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests . . . without which every government degenerates into tyranny.''[48]

C. Conclusion

The biennial reporting requirement of section 102(b) provides the opportunity for Congress to review the comprehensiveness and effectiveness of the CAA in light of the Board's recommendations and make the legislative changes it deems necessary. The CAA was enacted in the spirit of ''the framers of our constitution'' to take ''care to provide that the laws shall bind equally on all, especially those who make them.''[49] Acknowledging that reaching that goal was to be a continuing process, section 102(b) mandated the periodic process of re-examination of which this Report and its recommendations are a part.

The CAA took a giant step toward achieving parity and providing comprehensive and effective coverage of the legislative branch by applying certain substantive provisions of law and by providing new administrative and judicial remedies. However, the Board's review of all the currently inapplicable provisions of the CAA laws, as set forth in the accompanying table,[50] has demonstrated that significant gaps remain in the laws made applicable, particularly with respect to the manner in which these laws are enforced under the CAA as compared with the private sector. Based on its expertise in the application of the CAA laws, its three years of experience in the administration and enforcement of the Act, and its understanding that the general purposes and goals of the Act were to achieve parity in the application of laws and to provide the legislative branch with comprehensive and effective protections, the Board recommends that Congress now take the steps of implementing the legislative changes discussed above. The Board further advises the Congress that to realize fully the goals of the CAA—to assure that ''congressional employees will have the civil rights and social legislation that ensure fair treatment of workers in the private sector'' and ''to ensure that members of Congress will know firsthand the burdens that the private sector lives with''[51]—all inapplicable provisions of the CAA laws should, over time, be made applicable.

III. LEGISLATIVE OPTIONS AND RECOMMENDATIONS ON THE APPLICATION OF LAWS TO GAO, GPO, AND THE LIBRARY OF CONGRESS

A. Background

Congress sought ''to bring order to the chaos of the way the relevant laws apply to congressional instrumentalities''[52] when, in enacting the CAA, it applied the CAA to the smaller instrumentalities, but not to GAO, GPO, and the Library. Instead, the CAA clarified and extended existing coverage of the three largest instrumentalities in certain respects[53] and, in section 230, required the Board to conduct a study evaluating whether the ''rights, protections, and procedures, including administrative and judicial relief'' now in place at these instrumentalities were ''comprehensive and effective'' and to make ''recommendations for any improvements in regulations or legislation.''[54]

The legislative history explains why Congress covered some instrumentalities under the CAA but not others. Applying the CAA to the smaller instrumentalities and their employees would—extend to these employees, for the first time, the right to bargain collectively, and it will provide a means of enforcing compliance with these laws [made applicable by the CAA] that is independent from the management of these instrumentalities. . . . [B]y strengthening the enforcement mechanisms, the [CAA] attempts to transform the patchwork of hortatory promises of coverage into a truly enforceable application of these laws.[55]

By contrast, GAO, GPO, and the Library—already have coverage and enforcement systems that are identical or closely analogous to the executive-branch agencies.

Notably, employees in each of these agencies already have the right to seek relief in the Federal courts for violations of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Fair Labor Standards Act, and they are covered under the same provisions of the Family and Medical Leave Act as executive-branch employees.

Employees in each of these instrumentalities also already are assured of the right to bargain collectively, with a credible enforcement mechanism to protect that right. For these three instrumentalities, [the CAA] clarifies existing coverage in certain respects, and expands coverage under the Americans with Disabilities Act.[56]

Furthermore, legislative history explained that extending the CAA to cover the smaller instrumentalities would have the advantage of ''using the apparatus that will already be necessary to apply these [CAA] laws to the 20,000 employees of the House and Senate [to also apply these laws] to the remaining approximately 3,000 employees of the Architect [of the Capitol]'' and other smaller instrumentalities.[57] On the other hand, the CAA would ''reduce the adjudicatory burden on the new office by excluding from its jurisdiction the approximately 15,000 employees of GAO, GPO and the Library of Congress.''[58]

On December 30, 1996, the Board transmitted its study mandated by section 230 of the CAA to Congress. This Section 230 Study explained that, to fulfill the statutory mandate to assess whether the ''rights, protections, and procedures, including administrative and judicial relief,''[59] at GAO, GPO, and the Library were ''comprehensive and effective,'' the Board first had to establish a point of comparison, and the Board decided

[47] The particular authorities afforded to the implementing executive-branch agencies under the private-sector laws made applicable by the CAA are summarized in the private-sector enforcement authority tables set forth in Appendix II to this Report.

[48] The Federalist No. 57, at 42 (James Madison) (Franklin Library ed., 1984).

[49] Thomas Jefferson, *A Manual of Parliamentary Practice: for the Use of the Senate of the United States*, in Jefferson's Parliamentary Writings 359 (Wilbur S. Howell ed., 1988) (2d ed. 1812).

[50] *See* table of the significant provisions of the CAA laws not yet made applicable by the CAA, set forth as Appendix I to this Report.

[51] 141 Cong. Rec. S441 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[52] 141 Cong. Rec. S445 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[53] The CAA—*(i)* affirmed that GAO and GPO are covered under Title VII and the ADEA and extended coverage under those laws to additional employees at GPO; *(ii)* established new procedures for enforcing existing ADA rights at GAO, GPO, and the Library; *(iii)* removed GAO and the Library from coverage under FMLA provisions generally applicable in the federal sector and placed those instrumentalities under FMLA provisions generally applicable in the private sector; and *(iv)* affirmed that GPO is covered under the FLSA and extended coverage under that law to additional employees at GPO. See §§201(c), 202(c), 203(d), 210(g) of the CAA.

[54] Originally, the Administrative Conference of the United States was charged with conducting the study and making recommendations for improvements in the laws and regulations governing the three instrumentalities, but when Congress ceased funding the Conference, Congress also transferred its responsibility for the Study to the Board.

[55] 141 Cong. Rec. S445 (daily ed. Jan. 9, 1995) (statement of Senator Grassley).

[56] *Id.*

[57] *Id.*

[58] *Id.*

[59] §230(c) of the CAA.

that the CAA itself was the appropriate benchmark. To give further content to the term ''comprehensive and effective,'' the Board identified four ''key aspects of the current statutory and regulatory regimes,'' [60] which the Board reviewed in evaluating the comprehensiveness and effectiveness of the rights, protections, and procedures at the three instrumentalities:

(1) the nature of the substantive rights and protections afforded to employees, both as guaranteed by statute and as applied by rules and regulations;

(2) the adequacy of administrative processes, including: (a) adequate enforcement mechanisms for monitoring compliance and detecting and correcting violations, and (b) a fair and independent mechanism for informally resolving or, if necessary, investigating, adjudicating, and appealing disputes;

(3) the availability and adequacy of judicial processes and relief; and

(4) the adequacy of any process for issuing substantive regulations specific to an instrumentality, including proposal and adoption by an independent regulatory authority under appropriate statutory criteria.[61]

After reviewing and analyzing the statutory and regulatory regimes in place at the three instrumentalities, the Board concluded that—overall, the rights, protections, procedures and relief afforded to employees at the GAO, the GPO and the Library under the twelve laws listed in section 230(b) are, in general, comprehensive and effective when compared to those afforded other legislative branch employees covered under the CAA.[62]

However, the Board also found—The rights, protections, procedures and relief applicable to the three instrumentalities are different in some respects from those afforded under the CAA, in part because employment at the instrumentalities is governed either directly under civil service statutes and regulations or under laws and regulations modeled on civil service law.[63]

These civil-service provisions, which apply generally in the federal sector, apply at the three instrumentalities subject to numerous exceptions. In some instances where federal-sector provisions do not apply, these instrumentalities are covered under the CAA, and, in a few instances, under the statutory provisions that apply generally in the private sector. The result is what the Board called a ''patchwork of coverages and exemptions.'' [64]

However, the Board decided that it would be ''premature'' at that ''early stage of its administration of the Act'' [65] to make recommendations as to whether changes were necessary in the statutory and regulatory regimes applicable in these instrumentalities.[66] The ongoing nature of its reporting requirement under section 102(b) argued for making recommendations for statutory change on an incremental basis as the Board gained experience in the administration of the CAA, and the conclusions in the Section 230 Study would serve at the appropriate time as ''the foundation for recommendations for change'' in a subsequent report under section 102(b) of the CAA.[67]

Pursuant to the CAA, several of its provisions became effective with respect to GAO and the Library on December 30, 1997, which was one year after the Section 230 Study was transmitted to Congress.[68] On October 1, 1997, in anticipation of the December 30 effective date, the Office of Compliance published a notice proposing to extend its Procedural Rules to cover claims alleging that GAO or the Library violated applicable CAA requirements.[69] Comments in response to this notice, and to a supplemental notice published on January 28, 1998,[70] raised questions as to whether the CAA authorizes GAO and Library employees to use the procedures established by the Act to seek remedies for alleged violations of sections 204–207 of the Act. (These sections apply the EPPA, WARN Act, and USERRA and prohibit retaliation for asserting CAA rights.) The Office decided to terminate the rulemaking and, instead, ''to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.'' [71]

The Board has decided that this Section 102(b) Report, focusing on omissions in coverage of the legislative branch under the laws made generally applicable by the CAA, provides the appropriate time and place to make recommendations regarding coverage of GAO, GPO, and the Library under those laws. As anticipated in the Section 230 Study, enough experience has now been gained in implementing the CAA to enable the Board to make recommendations for improvements in legislation applicable to these instrumentalities. Moreover, resolution of uncertainty as to whether employees alleging violations of sections 204–207 may use CAA procedures is an additional reason to include in this Report recommendations about coverage of the three instrumentalities.

B. Principal Options for Coverage of the Three Instrumentalities

On the basis of the findings and analysis in the Section 230 Study, the Board has identified three principal options for coverage of these instrumentalities:

(1) *CAA Option*—Coverage under the CAA, including the authority of the Office of Compliance as it administers and enforces the CAA. (The Board here takes as its model the CAA as it would be modified by enactment of the recommendations made in Part II of this Report.)

(2) *Federal-Sector Option*—Coverage under the statutory and regulatory regime that applies generally in the federal sector, including the authority of executive-branch agencies as they administer and enforce the laws in the federal sector.

(3) *Private-Sector Option*—Coverage under the statutory and regulatory regimes that apply generally in the private sector, including the authority of the executive-branch agencies as they administer and enforce the laws in the private sector.[72]

These options are compared with the current regimes at GAO, GPO, and the Library, identifying the significant effects of applying each option.

The comparisons are presented in tables set forth in Appendix III to this Report and are summarized and discussed in narrative form below. Insofar as federal-sector employers, private-sector employers, or the three instrumentalities are covered by laws affording substantive rights that have no analogue in the CAA, this Report does not discuss or chart these rights.[73] In defining the coverage described in the three options, the Board decided that, so as not to create duplicative rights and remedies, the application of the CAA or of analogous federal-sector or private-sector provisions should supersede existing provisions affording substantially similar substantive rights or establishing administrative, judicial, or rulemaking processes to implement, remedy, or enforce such rights. However, substantive rights under federal-sector or other laws having no analogue in the CAA, and processes used to implement, remedy, or enforce such rights, would not be affected by the coverage described in the three options.

In comparing each option for coverage with the regime in place at each instrumentality, the Board has analyzed the differences under the four general categories used in the Section 230 Study: Substantive Rights, Administrative Remedial and Enforcement Processes, Judicial Processes and Relief, and Substantive Rulemaking Process. The narrative comparisons highlight the main differences in each area. The appended tables make a more detailed comparison of differences between each option and the existing regimes at the instrumentalities in each of the above-defined areas.

The examination of the consequences of applying the three options demonstrates that each has advantages and disadvantages with regard to ''comprehensiveness'' and ''effectiveness,'' particularly in the area of administrative processes and enforcement. A particular administrative/enforcement scheme arguably may be more ''comprehensive'' than another because it includes more avenues for the redress of grievances, but the very multiplicity of avenues arguably may make that scheme less ''effective'' than a more streamlined system. Because all three options largely provide the same substantive rights, determining whether to advocate the option of applying the CAA, the federal-sector model, or the private-sector model depends largely on weighing the costs and benefits of administrative systems for resolving

[60] Section 230 Study at ii.
[61] *Id.*
[62] *Id.*
[63] *Id.*
[64] *Id.* at iv.
[65] *Id.*
[66] The Board's institutional role, functions, and resources were also very different from those of the Administrative Conference, to which Congress originally assigned the task of preparing the study under section 230. *See* footnote 53 at page 23, above. The Conference in performing the study and making recommendations would have been acting in accordance with its institutional mandate to study administrative agencies and make recommendations for improvements in their procedures.

[67] Section 230 Study at iii.
[68] *See* §§ 204(d)(2), 205(d)(2), 206(d)(2), 215(g)(2) of the CAA.
[69] 143 Cong. Rec. S10291 (daily ed. Oct. 1, 1997) (Notice of Proposed Rulemaking).
[70] 144 Cong. Rec. S86 (daily ed. Jan. 28, 1998) (Supplementary Notice of Proposed Rulemaking).
[71] 144 Cong. Rec. S4818, S4819 (daily ed. May 13, 1998) (Notice of Decision to Terminate Rulemaking).
[72] To be sure, other, hybrid models could be developed, based on normative judgments respecting particular provisions of law. Or, it would be possible to leave the ''patchwork'' of coverages and exemptions currently in place at the three instrumentalities and fill serious gaps in coverage on a piecemeal basis. However, presentation of such models would cloud the central question of which is the most appropriate model for the instrumentalities.
[73] In evaluating these options, the Board is not considering the veterans' preference statutory provisions that apply generally in the federal sector and that, under the Veterans Employment Opportunity Act of 1998 (''VEOA''), were recently made applicable to certain employing offices of the legislative branch. Veterans' preference requirements, which were not made applicable by the CAA as enacted in 1995 or listed for study under section 230, were not analyzed in the Board's study under that section. Enacted on October 31, 1998, the VEOA assigned responsibility to the Board to implement veterans' preference requirements as to certain employing offices. It is premature for the Board now to express any views about the extent to which veterans' preference rights do, or should, apply to GAO, GPO, and the Library, but the Board may decide to do so in a subsequent biennial report under section 102(b).

disputes either primarily through a single-agency alternative dispute resolution system, an internal-agency investigation and multi-agency adjudicatory system, or a multi-agency investigation and enforcement system.

The Board found that the question of which option to recommend is by no means simple. Sensible arguments support the application of each model. GAO, GPO, and the Library can be analogized to either the other employing offices in the legislative branch, of which these instrumentalities are by statute a part, the executive branch, to which GAO, GPO, and the Library have many functional similarities, or the private sector, which the legislative history of the CAA portrays as the intended workplace model for the legislative branch.

Arguably, the legislative-branch model of the CAA, administered and enforced by the Office of Compliance, is the most appropriate to the instrumentalities, in that Congress has already placed not only the employing offices of the House and Senate, but also the instrumentalities of the Office of the Architect of the Capitol, the Capitol Police, the Congressional Budget Office, and the Office of Compliance under the CAA. Furthermore, as the legislative history of the CAA makes clear, the authors of the Act expected the Board to use the CAA as the benchmark in evaluating the comprehensiveness and effectiveness of the regimes in place at GAO, GPO, and the Library. Moreover, GAO, GPO, and the Library are considered instrumentalities of the Congress for many purposes, and some offices of these instrumentalities work directly with Members and staff of Congress in the legislative process, which legislative functions some Members of Congress perceived as creating tension with executive-branch agency coverage.

On the other hand, federal-sector laws and regulations, administered and enforced in part by executive-branch agencies, are already in place at the three instrumentalities in many respects. In addition, the special circumstances attendant to Congressional offices that warranted administration and enforcement under the CAA by a separate legislative-branch office, and that justified certain limitations on rights and procedures under the CAA as compared to those generally available in the federal sector, are attenuated when applied to GAO, GPO, and the Library. Moreover, as noted in Part II above, the Board has advised that the Congress over time should make all currently inapplicable provisions of the federal- and private-sector CAA laws applicable to itself; thus the instrumentalities should not become subject to those exemptions from coverage attendant upon application of the CAA model.

Finally, the private-sector model arguably best serves the goal of the CAA of achieving parity with the private sector whenever possible. By so doing, those in the legislative branch would live under the same legal regime as the private citizen.

C. Comparison of the Options for Change

1. CAA Option: Bring the three instrumentalities fully under the CAA, including the authority of the Office of Compliance as it administers and enforces the Act

(a) Substantive rights. Covering GAO, GPO, and the Library under the CAA would grant substantive rights that are generally the same as those now applicable at these instrumentalities. However, changes include: *(i)* GPO would become covered under the rights of the WARN Act and EPPA, which do not now apply at that instrumentality. *(ii)* Coverage under the CAA would afford a greater scope of appropriate bargaining units and collective bargaining than is now established at GAO under regulations issued by the Comptroller General under the GAO Personnel Act. *(iii)* Coverage under section 220(e)(2)(H) of the CAA would add a process by which the Board, with the approval of the House and Senate, can remove an office from coverage under labor-management provisions if exclusion is required because of conflict of interest or Congress's constitutional responsibilities; no such process applies now at the three instrumentalities. *(iv)* The CAA, applying private-sector FMLA rights, authorizes the employing office to recoup health insurance costs from a covered employee who does not return to work, to decline to restore ''key'' employees who take FMLA leave, and to elect whether an employee must use available paid annual or sick leave before taking leave without pay; GAO and the Library have already been granted these authorities, but coverage under the CAA would extend these authorities to GPO. *(v)* CAA provisions that apply FLSA rights would eliminate most use of compensatory time off, ''credit hours,'' and compressed work schedules that may now be used at the three instrumentalities in lieu of FLSA overtime pay.

(b) Administrative and enforcement processes. In the Section 230 Study, the Board found that the three instrumentalities are subject to—a patchwork of coverages and exemptions . . . . The procedural regimes at the instrumentalities differ from one another, are different from the CAA and are different from that in the executive branch. . . . [T]he multiplicity of regulatory schemes means that, in some cases, employees have more procedural options available, and in some cases, fewer. Additional procedural steps may afford opportunities to employees in some cases, but may also be more time-consuming and inefficient.[74]

In a number of respects, coverage under the CAA would grant employees for the first time an avenue to have their claims resolved by an administrative entity outside of the employing instrumentality. Under present law, while employees of all the instrumentalities may seek a remedy for unlawful discrimination in federal district court, there are limitations on the administrative remedies available outside of their employing agency. At the Library, an employee alleging discrimination may pursue a complaint through internal Library procedures, but if the Librarian denies the complaint, the employee has no right of appeal to an outside administrative agency. Likewise, a GPO employee cannot appeal administratively from the Public Printer's decision on a complaint of discrimination on the basis of disability. The GAO Personnel Appeals Board (''PAB''), which hears GAO employee appeals, is administratively part of GAO, and its Members are appointed by the Comptroller General.

In the area of occupational safety and health, the CAA requires the General Counsel of the Office of Compliance to conduct inspections periodically and in response to charges and authorizes the prosecution of violations. Although these CAA provisions already cover GAO and the Library, they do not now cover GPO, where no outside agency has authority to inspect or prosecute occupational safety and health violations.

The application of the CAA would end the patchwork of administrative coverages and exemptions and extend an administrative mechanism for resolving complaints that is administered by an office independent of the employing instrumentalities. The counseling and mediation system of the Office provides a fair, swift, and independent mechanism for informally resolving disputes. The complaint and appeals process (along with the option of pursuing a civil action) provides an impartial method of adjudicating and appealing those disputes that cannot be resolved informally.

On the other hand, except in the areas of safety and health, labor-management, and public access, the investigatory and enforcement authorities now applicable at the three instrumentalities are more extensive than those under the CAA, especially without the authorities that the Board recommends should be added to the CAA in Part II of this Report. For example, internal procedures at the three instrumentalities provide for investigation of every discrimination complaint by the equal employment office of the employing agency and the results of those investigations are made available to the employee. Under the CAA, there is no agency investigation, and an employer is not required to disclose the results of any internal investigation to the employee. Applying the CAA to the three instrumentalities would not preclude continuing to make their internal administrative and investigative procedures available for employees who choose to use them, but employees might have to choose whether to forgo using the internal procedures and investigations in order to meet the time limits for administrative or judicial claims resolution under the CAA.

Furthermore, the PAB General Counsel for GAO and the Special Counsel for GPO provide for prosecution of discrimination and other violations under certain circumstances. The CAA does not now provide for prosecution of discrimination or most other kinds of violations.

The Board also observes that the three instrumentalities are now covered under federal-sector provisions of Title VII and the ADEA that require equal employment opportunity programs and affirmative employment plans, and that GAO's programs and plans are reviewed by the PAB and GPO's programs and plans are reviewed by the Equal Employment Opportunity Commission (''EEOC''). The CAA contains no comparable provisions.

(c) Judicial processes and relief. Coverage under the CAA would grant a private right of action that is not now available to GPO employees to remedy FMLA and USERRA violations and would clarify that GAO and Library employees may use CAA judicial procedures to remedy EPPA, WARN Act, and USERRA violations. The CAA would also grant the right to a jury trial in all situations where it would be available in the private sector, whereas a jury trial may not be available now at the three instrumentalities in actions under the ADEA, FMLA, or FLSA.

On the other hand, while the right to judicial appeal to the Federal Circuit is largely the same under the CAA as it is under the provisions of labor-management law currently applicable at the three instrumentalities, the CAA does not allow the charging party to take appeals from unfair labor practice decisions and does not provide for appeal of arbitral awards involving adverse actions or performance-based actions.

(d) Substantive Rulemaking Process. GAO and the Library are already subject to substantive regulations promulgated by the Board under CAA provisions applying rights under the EPPA, WARN Act, and OSHAct, and the full application of CAA coverage

[74] Section 230 Study at iv.

would also subject these two instrumentalities to the Board's regulations implementing FLSA, FMLA, Chapter 71, and ADA public access rights, and would subject GPO to all substantive regulations under the CAA. Substantive regulations are issued under section 304 of the CAA, which authorizes the Board to issue regulations subject to approval by the House and Senate. These regulations under the CAA must generally be the same as those adopted by executive-branch agencies under the laws made applicable by the CAA for the private sector (or, under Chapter 71, for the federal sector), or, if regulations are not adopted by the Office and approved by the House and Senate, those executive-branch agency regulations themselves are applied under the CAA in most instances.[75] The regulatory requirements made applicable by the CAA are therefore established by regulatory agencies independent of the employers being regulated.

Currently, for the subject areas where the three instrumentalities are not now subject to CAA regulations, the substantive rights of employees at the three instrumentalities are defined in most respects by government-wide regulations adopted by executive-branch agencies. However, in a few areas, the heads of these instrumentalities are granted the authority to define and delimit rights for their employees by regulation. For example, the GAO Personnel Act authorizes the Comptroller General to establish a labor-management program ''consistent'' with Chapter 71, and GAO's order under this authority includes limits on appropriate bargaining units and on the scope of bargaining that are more restrictive than those in Chapter 71, as made applicable by the CAA. The Comptroller General and the Librarian of Congress have authority to promulgate substantive regulations under the FMLA. The Public Printer is not bound to apply the Labor Department's occupational safety and health standards, provided he provides conditions ''consistent with'' those standards. By contrast, if the CAA applied, these instrumentalities would become subject to regulatory requirements established by regulatory agencies independent of the instrumentalities.

2. Federal-Sector Option: Bring the three instrumentalities fully under federal-sector provisions of law, including the authority of executive-branch agencies as they administer and enforce those provisions

(a) Substantive rights. The substantive rights now available at the three instrumentalities are mostly the same as those that would become available under federal-sector coverage. However, some changes would occur. For instance, (*i*) Under the federal-sector regime, GAO and the Library would no longer be covered under CAA provisions making applicable the rights under the EPPA or WARN Act. (*ii*) GAO and the Library would have coverage under the federal-sector provisions of the FMLA, which do not allow the employer to recoup health insurance costs from an employee who does not return to work; or to limit the application of FMLA restoration rights to ''key'' employees; or to elect whether an employee must use available paid annual or sick leave before taking leave without pay. (*iii*) Coverage under Chapter 71 would afford a greater scope of appropriate bargaining units and collective bargaining than is now provided at GAO under regulations issued by the Comptroller General under the GAO Personnel Act.

(b) Administrative and enforcement processes. The administrative processes now in place at GAO, GPO, and the Library are similar to, and, in many instances, the same as, those in effect generally for the federal sector. Of the three, GPO has the most federal-sector coverage, being already subject, in most areas, to the authority of the EEOC, Merit Systems Protection Board (''MSPB''), and Special Counsel, which investigate, bring enforcement actions, and hear appeals arising out of executive-branch agencies, and the Office of Personnel Management (''OPM''), which promulgates government-wide regulations under the FLSA and FMLA and investigates and resolves FLSA complaints. Choosing the federal-sector option at GPO would extend this existing situation across the board. Furthermore, whereas GPO employees' ADA complaints are now investigated and resolved by GPO management without any right of appeal to, or investigation and prosecution by, any outside agency or office, federal-sector coverage would bring such complaints under the authority of executive-branch agencies. Also, regarding occupational safety and health at GPO, whereas no outside agency can now conduct inspections, consider employee complaints, require compliance, or resolve disputes regarding occupational safety and health, application of federal-sector coverage would cause these functions to be performed by the Department of Labor. In addition, while GPO, GAO, and the Library are currently required to have internal mechanisms for investigating and resolving public-access complaints under the ADA, applying the federal-sector regime would extend the Attorney General's authority under Executive Order 12250 to review the three instrumentalities' regulations, to coordinate implementation, and to bring enforcement actions.

GAO is not now subject to executive-branch agencies' authority in most respects, but was originally considered part of the executive branch and remained subject to the authority of the executive-branch agencies until the 1980 enactment of the GAO Personnel Act, which consolidated the appellate, enforcement, and oversight functions that in the executive branch are performed by the EEOC, the MSPB, and the Special Counsel into the function of the GAO PAB and its General Counsel.[76] Applying federal-sector coverage would, with respect to the CAA laws, restore the PAB's responsibilities to the EEOC, MSPB, and Special Counsel, which, unlike the PAB, are fully separate and independent from regulated employing agencies. GAO is already subject to OPM's government-wide regulations and claims-resolution authority under the FLSA.

The Library's internal claims processes are largely modeled on those required and applied by executive-branch employing agencies, but the Library has been exempted from the authority of executive-branch agencies in most respects, with the principal exception being FLRA authority over labor-management relations.[77] Application of federal-sector coverage would, with respect to the CAA laws, extend the authority of the EEOC, MSPB, the Special Counsel, and OPM to include the Library and its employees.

(c) Judicial processes and relief. In most instances, employees at the three instrumentalities are already covered by the same judicial processes as federal-sector employees. However, whereas PAB decisions may be reviewed only by appeal to the Federal Circuit, federal-sector procedures would allow suit and trial de novo after exhausting all administrative remedies, even after decision on appeal to the EEOC or the MSPB. On the other hand, GAO and Library employees would no longer have a private right of action under FMLA, and, unlike the CAA, which now provides for judicial review of OSHAct decisions regarding GAO and the Library, final occupational safety and health decisions under the federal-sector scheme are made by the President.

(d) Substantive rulemaking process. In a number of areas, the three instrumentalities are already subject to the same government-wide regulations as are in place in the federal sector. GAO and GPO are subject to OPM's regulations under the FLSA, GPO is subject to OPM's regulations under the FMLA, and GPO and the Library are subject to FLRA's regulations under Chapter 71. However, in a number of instances the three instrumentalities are currently able to issue their own regulations without reference to the regulations in the federal sector, as described at page 33 above in the discussion of the substantive rulemaking process under the CAA option. Coverage by the federal-sector regime would subject the three instrumentalities to uniform government-wide regulations in all areas.

3. Private-Sector Option: Bring the three instrumentalities fully under private-sector provisions of law, including the authority of executive-branch agencies as they administer and enforce those provisions

(a) Substantive rights. The substantive rights and responsibilities under the current regimes at the three instrumentalities are generally similar to what would be provided under private-sector provisions of law, with the notable exception of the area of labor-management relations where application of private-sector substantive law would grant to employees at the three instrumentalities certain rights, such as the right to strike, unavailable to other federal government employees. There are also a number of other differences between private-sector provisions and the substantive provisions of law currently applicable at the three instrumentalities. For example, the application of private-sector provisions of the FLSA would eliminate most use of compensatory time in lieu of overtime pay. Also, private-sector FMLA provisions would apply at GPO, which allow the employer to recoup health insurance costs from an employee who does not return to work; to limit the application of

[75] To date, regulations have been adopted and submitted to the House and Senate but not approved in the following areas: OSHAct, public access under the ADA, application of labor-management rights to offices listed in §220(e) of the CAA, and coverage of GAO and the Library under substantive regulations with respect to EPPA, WARN Act, and OSHAct. Regulations adopted by executive-branch agencies therefore apply in all of these areas except §220(e), because §411 of the CAA excepts from the default provision regulations regarding the offices listed under §220(e)(2). If the CAA covered the three instrumentalities, §220(e) could affect them only if the Board adopted regulations, approved by the House and Senate, to exclude ''such other offices that perform comparable functions,'' within the meaning of §220(e)(2)(H).

[76] Legislative history explains that the GAO Personnel Act was enacted to enable GAO to audit the executive-branch personnel programs and agencies established under the Civil Service Reform Act of 1978 without being subject to those same programs and agencies. S. Rep. No. 96–540, 96th Cong. (Dec. 20, 1979) (Governmental Affairs Committee), *reprinted in* 1980 U.S. Code Cong. and Admin. News 50–53.

[77] In an another area that is significant, though not analogous to any of the laws made applicable by the CAA, the Library is also subject to OPM's authority over job classifications.

FMLA restoration rights to ''key'' employees; and to elect whether an employee must use available paid annual or sick leave before taking leave without pay. Finally, GPO, which is not now covered by WARN Act or EPPA rights, would become subject to those laws.

(b) Administrative processes. If provisions of private-sector law were applied, the greatest impact would be in the area of administrative processes. Under private-sector schemes generally, with the exception of occupational safety and health and labor-management relations, the agency's responsibility is limited to investigation and prosecution, without administrative adjudication and appeal.

The consequences of application of private-sector administrative schemes would be different at each instrumentality. The most significant change would be at the Library, where outside agencies now have little role in either investigation and prosecution or in administrative adjudication and appeals. If private-sector coverage applied, an agency outside of the Library would have authority to investigate and prosecute discrimination, FLSA, FMLA, and other laws. At GAO and GPO, the present adjudicatory and prosecutory schemes would be replaced by a new prosecutorial regime handled by agencies ordinarily responsible for private-sector enforcement. For example, FLSA and FMLA enforcement would be handled by the Labor Department in its investigatory and prosecutorial role, rather than OPM and the PAB at GAO and OPM and MSPB at GPO. However, under the currently applicable provisions of law and regulation that govern the federal sector with respect to the FLSA, OPM has authority to direct GPO and GAO to comply, whereas under the provisions of law and regulation that govern the private sector, the Labor Department would have to bring suit to enforce compliance. In the area of discrimination at GPO, rather than appeal rights to EEOC and MSPB, there would be investigation and prosecution by the EEOC, while at GAO, the PAB's role would be replaced by EEOC investigation and prosecution. In the area of occupational safety and health, the enforcement responsibilities for GAO and the Library would be transferred from the OC to the Labor Department, and the Labor Department would also assume these responsibilities for GPO, where currently no outside agency exercises these responsibilities.

(c) Judicial processes and relief. In the area of judicial processes and relief, if private-sector laws were applied, a private right of action would be added under a number of provisions where it does not currently exist. For example, GPO employees would gain a private right of action under FMLA and USERRA. GAO and Library employees would gain an unambiguous private right of action under WARN, USERRA, and EPPA. Moreover, punitive damages are part of the private-sector remedial scheme, whereas they are currently unavailable at the three instrumentalities.

(d) Adoption of substantive regulations. Application to the three instrumentalities of the substantive rulemaking process governing the private sector would resolve concerns respecting independent rulemaking authority under the regimes currently in place at these instrumentalities. The agencies issuing regulations that govern the private sector have no employment relationship with the community they regulate, unlike the three instrumentalities themselves when they promulgate substantive rules. Moreover, a switch to private-sector coverage in the areas of OSHAct, WARN Act, and EPPA would remove GAO and the Library, which are currently subject to CAA substantive rules in those areas, from the section 304 process of adoption and issuance of substantive regulations.

The three instrumentalities are currently covered by a number of civil service and other protections which have no analogue in the CAA and which the Board does not undertake to review here. The Board determined that such substantive rights under federal-sector or other laws having no analogue in the CAA, and processes used to implement, remedy, or enforce such rights, should not be affected by the coverage under any of the options. However, to avoid creating duplicative rights and remedies, the application of the CAA or of analogous federal-sector or private-sector provisions should supersede existing provisions affording substantially similar substantive rights or establishing administrative, judicial, or rulemaking processes to implement, remedy, or enforce such rights.

D. Recommendations

1. The current ''patchwork of coverages and exemptions''[78] at GAO, GPO, and the Library should be replaced by coverage under either the CAA or the federal-sector regime

In its Section 230 Study, the Board described the current systems in place at the instrumentalities, and stated: ''Congressional decisions made over many years in different statutes subject the three instrumentalities to the authorities of certain executive-branch agencies with respect to certain laws, but exempt them from executive-branch authority with respect to others. . . . The result is a patchwork of coverages and exemptions from the procedures afforded under civil service law and the authority of executive-branch agencies, and from the procedures afforded under the CAA and the authority of the Office of Compliance.''[79]

In preparing this 1998 Report, the Board considered whether to recommend that serious gaps in coverage at the three instrumentalities be filled without fundamentally changing the regimes already in place at each instrumentality. However, the Board unanimously rejected that piecemeal approach. The ''patchwork'' nature of existing coverages and exemptions yields complexity and areas of legal uncertainty in coverage at the three instrumentalities. Furthermore, in several areas, the three instrumentalities are not now subject to the authority of any outside regulatory or personnel agency to promulgate regulations, resolve claims, or exercise enforcement authorities.

Accordingly, the Board unanimously concluded that this current system is less comprehensive and effective than, and should be replaced by, coverage under one of the options described in the previous section. The Board also agreed unanimously that coverage under the private-sector regime is not the best of the three options it considered. However, the Board did not reach a consensus as to whether the CAA or the laws and regulations applicable in the federal sector should be made applicable to GAO, GPO, and the Library. Instead, for the reasons stated below, Members Adler and Seitz concluded that the three instrumentalities should be covered under the CAA, with certain modifications, and Chairman Nager and Member Hunter concluded that the three instrumentalities should be made fully subject to the laws and regulations generally applicable in the federal sector.

2. Members Adler and Seitz have concluded that GAO, GPO, and the Library should be covered under the CAA, including the authority of the Office of Compliance, and that the CAA, as applied to these instrumentalities, should be modified—(a) to add Office of Compliance enforcement authorities as recommended in Part II of this Report and (b) to preserve certain rights now applicable at the three instrumentalities.

Members Adler and Seitz concluded that the three instrumentalities should be brought under the CAA primarily for two reasons. As noted above, the Board in the Section 230 Study decided that its statutory mandate was to evaluate the ''comprehensiveness and effectiveness'' of the existing statutory and regulatory regimes at the three instrumentalities by comparing them to the regime under the CAA. The application of the CAA to the three instrumentalities would assure that this standard of ''comprehensiveness and effectiveness'' is achieved throughout the legislative branch.

Second, all laws made applicable by the CAA are administered by a single Office. The advantages of this unified structure are that employees can turn to a single place for assistance; efficient and uniform procedures under a model administrative dispute resolution system have been established for various types of complaints; and a single body of substantive regulations and decisions, which is as internally consistent as possible within the constraints of applicable law, is being developed. Extending the jurisdiction of the Office to include GAO, GPO, and the Library for all of the laws made applicable by the CAA will foster such efficient and consistent administration of the laws at the three instrumentalities, and will put the expertise and resources of the Office of Compliance to full use throughout the legislative branch.

The conclusions of Members Adler and Seitz are premised and dependent upon the CAA's being applied to the three instrumentalities with certain modifications. First, the Act should be amended to enlarge the Office of Compliance's enforcement authorities as recommended above in Part II of this Report. The Board there described its determination that certain additional provisions of CAA laws should be made applicable to all employing offices of the legislative branch that are now covered under the CAA, and, for the reasons discussed above, such additional provisions should be made applicable to GAO, GPO, and the Library as well.

Second, the rights extended by the CAA in the House and Senate and the smaller instrumentalities are subject to certain limitations that do not apply under the regimes now at GAO, GPO, and the Library. These limitations appear to have been included in the CAA to preserve the independence of the House and Senate, to protect against publicity attendant to complaints or litigation that Congress believed might unduly affect the legislative and electoral processes, and to avoid labor activities that Congress was concerned might, in certain situations, engender conflict of interest or interfere with fulfillment by Congress of its constitutional responsibilities. However sound these reasons may have been with respect to Congressional offices for which the CAA was principally designed, these reasons have less force as to GAO, GPO, and the Library in view of their respective roles in the legislative process.

[78] Section 230 Study at iv.

[79] *Id.*

Members Adler and Seitz therefore believe that limitations such as those imposed by sections 220(c)(2)(H) and 416 of the CAA should not apply at GAO, GPO, and the Library. Section 220(c)(2)(H) of the CAA establishes a process by which the Board, with the approval of the House and Senate, may remove an office from coverage under some or all provisions of labor-management law if ''required because of—(i) a conflict of interest or appearance of a conflict of interest; or (ii) Congress' constitutional responsibilities.''[80] No such process applies under labor-management law now applicable at GAO, GPO, and the Library, and none should be made applicable to them under the CAA. Section 416 of the CAA makes the counseling, mediation, and administrative hearing processes of the CAA ''confidential.'' The CAA, in being made applicable to these three instrumentalities, should not impose confidentiality requirements except to the same extent that confidentiality is imposed in proceedings by the executive-branch agencies implementing the CAA laws and to the extent necessary to facilitate effective counseling and mediation under §§ 402 and 403 of the CAA.[81]

3. Chairman Nager and Member Hunter have concluded that the federal-sector model should apply, including the authority of executive-branch personnel-management and regulatory agencies to implement and enforce the laws.

Chairman Nager and Member Hunter have concluded that GAO, GPO, and the Library should be brought under the statutory and regulatory regime that applies generally in the federal sector, including the authority of executive-branch agencies as they administer and enforce laws in the federal sector, for several reasons. Insofar as the present statutory scheme is not ''comprehensive and effective'' because it does not provide employees access to an outside regulatory entity to promulgate regulations and resolve claims, this problem could be solved by extending the authority of the executive-branch agencies over the three instrumentalities.

GAO, GPO, and the Library are already subject to many of the same personnel statutes that apply generally in the federal sector and, in some instances, to the authority of executive-branch agencies as well. Making the federal-sector regime fully applicable would be less disruptive to the three instrumentalities than replacing the coverage already in effect with either the CAA or private-sector coverage.

Furthermore, employment at these three instrumentalities is more akin to the large civilian departments and agencies of the executive branch, for which federal-sector laws and regulations were designed, than the employing offices of the House and Senate, for which the CAA was primarily designed. For example, substantive provisions of federal-sector statutes and regulations in such areas as overtime pay, family and medical leave, and advance notification of layoffs are designed to dove-tail with merit-based retention systems, position-classification systems, leave policies, and other personnel practices that are found generally in both the executive branch and the three large instrumentalities, but that are not common in either House and Senate offices or the private sector. Also, while federal-sector law in some respects limits the right to sue, it also affords administrative procedures and remedies that exceed what are available under the CAA or in the private sector. Such procedures have traditionally been seen as appropriate to avoid politicized employment and to provide for accountability in large, apolitical bureaucracies. In congressional staff, where political appointment is generally seen as proper and where accountability is achieved through the electoral process, these federal-sector procedures and remedies have been considered inappropriate. However, the three instrumentalities have traditionally been seen as having many of the attributes of the large, apolitical bureaucracy, and employment practices have largely followed the federal-sector model.

Placing GAO, GPO, and the Library under federal-sector coverage would also have the salutary effect of giving Congress the experience of living under the laws that it enacts for the executive branch. According to the authors of the CAA, a principal goal of that Act was to make Congress live under the laws that it enacts for the private sector, so that Congress can better understand the consequences of those laws. Congress might likewise better understand the consequences of the laws that it enacts for the executive branch if the large instrumentalities of Congress were fully subject to those laws.

APPENDIX I—INAPPLICABLE PRIVATE-SECTOR PROVISIONS OF THE LAWS MADE APPLICABLE BY THE CAA

This table describes significant statutory provisions that are contained in the laws made applicable by the CAA (the ''CAA laws'') and that apply in the private sector, but that do not apply fully to the legislative branch. ''Apply'' means that a provision is referenced and incorporated by the CAA, or a substantially similar provision is set forth in the CAA, or the provision applies to the legislative branch by its own terms without regard to the CAA. Whether provisions apply to GAO, GPO, and the Library of Congress is not discussed in this table, but is analyzed in the tables contained in Appendix III of this Report.

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 (''TITLE VII'') AND 42 U.S.C. §§ 1981, 1981a

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Employment discrimination against individuals employed by other employers. § 703(a)(1) of Title VII forbids employment discrimination by covered employers against ''any individual.'' Courts have held that this prohibition extends beyond the immediate employer-employee relationship under certain circumstances, including where a defendant who does not employ an individual controls that individual's access to employment with another employer and denies access based on unlawful criteria.[1] Under the CAA, an employing office may only be charged with discrimination by a ''covered employee,'' defined as an employee of the nine legislative-branch employers listed in § 101(3) of the CAA.	Secs. 703(a)(1); *42 U.S.C. §§ 2000e–2(a)(1).*
2. Publication of discriminatory notices or advertisements. Publication of discriminatory notices or advertisements is prohibited under § 704(b) of Title VII. Under the CAA, a notice or advertisement might be evidence of discriminatory animus, but § 704(b) of Title VII, which makes unlawful the mere publication of a discriminatory notice or advertisement, is not referenced by the CAA.	Sec. 704(b); *42 U.S.C. § 2000e–3(b).*
3. Coverage of unions. Discrimination by private-sector unions is forbidden by §§ 703(c) and 704 of Title VII and is subject to enforcement under § 706. The CAA does not make these provisions applicable against unions discriminating against legislative branch employees, because § 201 of the CAA forbids discrimination only in ''personnel actions'' and §§ 401–408 of the CAA allow complaints only against employing offices. (Unlawful discrimination by a union may be an unfair labor practice under § 220 of the CAA, but the procedures and remedies under that section are very different from those under Title VII and under the CAA for violations of Title VII rights and protections.) A similar situation exists in the executive branch, where § 717 of Title VII does not cover discrimination by unions against executive branch employees, but courts and the EEOC are divided as to whether the private-sector provisions of Title VII and 42 U.S.C. § 1981 apply by their own terms to such discrimination. See *generally* II Lindemann & Grossman, Employment Discrimination Law 1320, 1575 (3d ed. 1996). Similarly, differing views might be expressed with respect to whether these private-sector provisions apply by their own terms to forbid discrimination by unions against legislative-branch employees.	Secs. 703(c), 704, 706; *42 U.S.C. §§ 2000e–2(c), 2000e–3, 2000e–5.*
4. Consideration of political party, domicile, or political compatibility. Under the CAA, § 502 provides that consideration of political party, domicile, or political compatibility by Members, committees, or leadership offices shall not be a violation of § 201, which is the section that makes applicable the rights and protections of Title VII. Under Title VII, there is no specific immunity for consideration of political party, domicile, or political compatibility.	Sec. 703; *42 U.S.C. § 2000e–2.*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
5. Agency responsibility to investigate charges filed by an employee or Commission Member. Title VII requires the EEOC to investigate charges filed by either an employee or a Member of the Commission. The CAA neither references these provisions nor sets forth similar provisions authorizing agency investigation.	Sec. 706(b); *42 U.S.C. § 2000e–5(b).*
6. Agency responsibility to ''endeavor to eliminate'' the violation by informal conciliation. Title VII requires that, upon the filing of a charge, if the EEOC determines that ''there is reasonable cause to believe that the charge is true,'' the agency must ''endeavor to eliminate any such alleged unlawful employment practice'' by informal conference, conciliation, and persuasion. The CAA does not reference these provisions; it requires the mediation of allegations of discrimination and requires approval of settlements by the Executive Director, but does not require any person involved in the mediation or in approving the settlement to ''endeavor to eliminate'' the alleged discrimination.	Sec. 706(b); *42 U.S.C. § 2000e–5(b).*
7. Agency authority to bring judicial enforcement actions. Title VII authorizes the EEOC to bring a civil action. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	Sec. 706(f)(1); *42 U.S.C. § 2000e–5(f)(1).*
8. Agency authority to intervene in private civil action of general public importance. Under Title VII, the EEOC may intervene in a private action of general public importance. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to intervene in private actions.	Sec. 706(f)(1); *42 U.S.C. § 2000e–5(f)(1).*
9. Agency authority to apply to court for enforcement of judicial orders. Title VII authorizes the EEOC to commence judicial proceedings to compel compliance with judicial orders. The CAA does not reference these provisions. § 407(a)(2) of the CAA enables the Office of Compliance to petition the Court of Appeals to enforce final orders of a hearing officer or the Board, but the CAA sets forth no provision enabling an agency to seek the enforcement of judicial orders.	Sec. 706(i); *42 U.S.C. § 2000e–5(i).*

[80] Section 220(e)(1)(B) of the CAA.

[81] *Cf.* 5 U.S.C. § 574 (duties of confidentiality in mediation or other proceedings under the Administrative Dispute Resolution Act).

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 (''TITLE VII'') AND 42 U.S.C. §§ 1981, 1981a—Continued

10. Grant of subpoena power and other powers for investigations and hearings. Title VII grants the EEOC powers to gain access to evidence, including subpoena powers, in support of its investigations and hearings. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA provisions do not subpoena powers for use in agency investigation.)	Secs. 709(a), 710; *42 U.S.C. §§ 2000e–8(a), 2000e–9.*
11. Recordkeeping and reporting requirements. Title VII requires employers in the private sector to make and preserve such records and make such reports therefrom as the EEOC shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for enforcement. The CAA does not reference these provisions, and the Board, in issuing substantive regulations with respect to several other laws, found that recordkeeping and reporting requirements under those laws were not made applicable by the CAA.	Sec. 709(c); *42 U.S.C. § 2000e–8(c).*
Administrative and Judicial Procedures and Remedies:	
12. Suing individuals as agent; possibility of individual liability. Because the definition of ''employer'' in Title VII includes ''any agent,'' a plaintiff may choose to sue the employer by naming an appropriate individual in the capacity of agent. Furthermore, while many recent cases hold that individuals may not be held individually liable in discrimination cases, some cases hold to the contrary and the issue remains unresolved. *See generally* II Lindemann & Grossman, Employment Discrimination Law 1314–16 (3d ed. 1996). Under the CAA, individuals may be neither sued nor held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Sec. 701(b); *42 U.S.C. § 2000e(b).*
13. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. Title VII authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive ''any power of either the Senate or the House of Representatives under the Constitution,'' including under the ''Journal of Proceedings Clause,'' and under the rules of either House relating to records and information.	Sec. 706(f)(1); *42 U.S.C. § 2000e–5(f)(1).*
14. Appointment of counsel and waiver of fees. § 706(f)(1) of Title VII authorizes the court to appoint an attorney for the complainant in a private action and to waive costs. The CAA does not reference § 706(f)(1). In judicial proceedings under the CAA, the courts may exercise their general powers to authorize proceedings *in forma pauperis* and waive fees and costs and appoint counsel if a party is unable to pay. See 28 U.S.C. § 1915. In administrative proceedings under the CAA, there are no fees and costs to waive, but there is also no power to appoint counsel.	Sec. 706(f)(1); *42 U.S.C. § 2000e–5(f)(1).*
15. Agency authority to apply for TRO or preliminary relief. § 706(f)(2) of Title VII authorizes the EEOC to bring an action for a temporary restraining order (''TRO'') or preliminary relief pending resolution of a charge. The CAA neither references § 706(f)(2) nor sets forth similar provisions authorizing TROs or preliminary relief, and the CAA does not allow a covered employee to commence an administrative complaint or civil action until after having completed periods of counseling and mediation and an additional period of at least 30 days	Sec. 706(f)(2); *42 U.S.C. § 2000e–5(f)(2).*
16. Private right to sue immediately, without having exhausted administrative remedies. An employee alleging race or color discrimination who prefers not to pursue a remedy through the EEOC may choose to sue immediately under 42 U.S.C. § 1981. The CAA allows a covered employee to file an administrative complaint or commence a civil action only after having completed periods of counseling and mediation and an additional period of at least 30 days..	42 U.S.C. § 1981.
Defense:	
17. Defense for good faith reliance on agency interpretations. § 713(b) of Title VII provides a defense for an employer who relies in good faith on an interpretation by the EEOC. The CAA does not specifically reference § 713(b), but the Board decided that a similar defense in the Portal-to-Portal Act (''PPA'') was incorporated into § 203 of the CAA and applies where an employing office relies on an interpretation of the Wage and Hour Division.	Sec. 713(b); *42 U.S.C. § 2000e–12(b).*
Punitive Damages:	
18. Punitive damages. 42 U.S.C. § 1981a(b)(1) authorizes punitive damages in cases under Title VII where malice or reckless indifference is demonstrated, and under 42 U.S.C. § 1981 punitive damages may be warranted in cases of race or color discrimination. However, § 1981a(b)(1) is not referenced by the CAA at all, and § 1981 is referenced by § 201(b)(1)(B) of the CAA with respect to the awarding of ''compensatory damages'' only; furthermore, § 225(c) of the CAA expressly precludes the awarding of punitive damages.	42 U.S.C. §§ 1981, 1981a(b)(1).
C. OTHER AGENCY AUTHORITIES	
19. Notice-posting requirements. Title VII requires employers, employment agencies, and unions to post notices prepared or approved by the EEOC, and establishes fines for violation. The CAA does not reference these provisions, and the Board, in issuing substantive regulations with respect to several other laws, found that notice-posting requirements under those laws were not incorporated by the CAA.	Sec. 711; *42 U.S.C. § 2000e–10.*
20. Authority to issue interpretations and opinions. § 713(b) of Title VII establishes a defense for good-faith reliance on ''any written interpretation and opinion'' of the EEOC, and the EEOC has established a process by which ''[a]ny interested person desiring a written title VII interpretation or opinion from the Commission may make such a request.'' 29 C.F.R. § 1601.91 *et seq.* The CAA does not reference § 713(b) specifically. Furthermore, as noted on page 4, row 17, above, the Board decided that the defense for good-faith reliance stated in the PPA, which is similar to the defense in § 713(b), was incorporated into § 203 of the CAA; but the Board also then stated that ''it seems unwise, if not legally improper, for the Board to set forth its views on interpretive ambiguities in the regulations outside of the adjudicatory context of individual cases,'' and ''the Board would in the exercise of its considered judgment decline to provide authoritative opinions to employing offices as part of its ''education'' and ''information'' programs.'' 142 Cong. Rec. S221, S222–S223 (daily ed. Jan. 22, 1996).	Sec. 713(b); *42 U.S.C. § 2000e–12(b).*

[1] See, e.g., *Sibley Memorial Hosp.* v. *Wilson*, 488 F.2d 1338, 1341 (D.C. Cir. 1973) (''nowhere are there words of limitation that restrict references in the Act to 'any individual' as comprehending only an employee of the employer,'' nor could the court perceive ''any good reason to confine the meaning of 'any individual' to include only former employees and applicants for employment, in addition to present employees''); *Moland* v. *Bil-Mar Foods*, 994 F.Supp. 1061, 1075 (N.D. Iowa 1998) (interlocutory appeal certified) (trucking company's employee assigned to scale house on processing-plant premises could maintain sex discrimination complaint against processing company); *King* v. *Chrysler Corp.*, 812 F.Supp. 151, 153 (E.D. Mo. 1993) (cashier employed by cafeteria on automobile manufacturer's premises need not be employee of manufacturer to sue manufacturer under Title VII); *Pelech* v. *Klaff-Joss*, L.P., 815 F.Supp. 260, 263 (N.D. Ill. 1993) (cleaning company and its chairman held potentially liable under Title VII for causing a high-rise building to fire a security guard).

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (''ADEA'')

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Employment discrimination against individuals employed by other employers. §4(a)(1) of the ADEA forbids employment discrimination by covered employers against ''any individual.'' As discussed at page 1, row 1, above, courts have held that a Title VII provision forbidding discrimination against ''any individual'' extends beyond the immediate employer-employee relationship under certain circumstances, including where a defendant who does not employ an individual controls that individual's access to employment with another employer and denies access based on unlawful criteria. Under the CAA, an employing office may only be charged with discrimination by a ''covered employee,'' defined as an employee of the nine legislative-branch employers listed in §101(3).	Sec. 4(a)(1); *29 U.S.C. §623(a)(1).*
2. Reduction of wages to achieve compliance. §4(a)(3) of the ADEA forbids employers in the private sector to reduce the wage rate of any employee in order to comply with the ADEA. §4(a)(3) is not referenced by the CAA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15.	Sec. 4(a)(3); *29 U.S.C. §623(a)(3).*
3. Publication of discriminatory notices or advertisements. Publication of discriminatory notices or advertisements is prohibited by §4(e) of the ADEA. Under the CAA, a notice or advertisement might be evidence of discriminatory animus, but §4(e) of the ADEA, which makes unlawful the mere publication of a discriminatory notice or advertisement, is not referenced by the CAA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15.	Sec. 4(e); *29 U.S.C. §623(e).*
4. Coverage of unions. §4(c)-(e) of the ADEA forbids discrimination by unions in the private sector, and these provisions may be enforced against private-sector unions under §7 of the ADEA. The CAA does not make these provisions applicable to unions discriminating against legislative branch employees, because §201 of the CAA only forbids discrimination in ''personnel actions'' and §§401-408 allow complaints only against employing offices. (Unlawful discrimination by a union may be an unfair labor practice under §220 of the CAA, but the procedures and remedies under that section are very different from those under the ADEA and under the CAA for violations of ADEA rights and protections.) As noted at page 1, row 3, above, a similar situation exists in the executive branch, where §717 of Title VII does not cover discrimination by unions against executive branch employees, but courts and the EEOC are divided as to whether the private-sector provisions of Title VII and 42 U.S.C. §1981 apply by their own terms to such discrimination. Similarly, differing views might be expressed with respect to whether the private-sector provisions of the ADEA apply by their own terms to forbid discrimination by unions against legislative-branch employees.	Secs. 4(c)-(e), 7; *29 U.S.C. §§623(c)–(e), 626.*
5. Mandatory retirement for state and local police forces. §4(j) of the ADEA allows age-based hiring and firing of state and local law enforcement officers. The CAA does not reference §4(j) of the ADEA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15. Furthermore, the CAA does not contain any provisions similar to §4(f) of the ADEA providing an exception for the Capitol Police. However, the Capitol Police Retirement Act (''CPRA'), 5 U.S.C. §8425, imposes age-based mandatory retirement for Capitol Police Officer. The CAA does not state expressly whether it repeals the CPRA, but the Federal Circuit held that the application of ADEA rights and protections by the Government Employee Rights Act, a predecessor to the CAA that applied certain rights and protections to the Senate, did not implicitly repeal the CPRA. *Riggin* v. *Office of Senate Fair Employment Practices*, 61 F.3d 1563 (Fed. Cir. 1995).	Sec. 4(j); *29 U.S.C. §623(j).*
6. State and local police officers entitlement to job-performance testing to continue employment after retirement age. Under §4(j) of the ADEA, after a study and rulemaking by the Labor Secretary are completed, state and local law enforcement officers who exceed mandatory retirement age will become entitled to an annual opportunity to demonstrate job fitness to continue employment. The CAA does not reference §4(j) of the ADEA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15. (Whether the Capitol Police remain subject to mandatory retirement at all is discussed in row 5 above.).	Sec. 4(j); *29 U.S.C. §623(j).*

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (''ADEA'')—Continued

7. Age-based mandatory retirement of executives and high policy-makers. §12(c) of the ADEA allows aged-based mandatory retirement for bona fide executives and high policy-makers in the private sector. The CAA does not reference §12(c) of the ADEA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15.	Sec. 12(c); *29 U.S.C. §631(c).*
8. Consideration of political party, domicile, or political compatibility. Under the CAA, §502 provides that consideration of political party, domicile, or political compatibility by Members, committees, or leadership offices shall not be a violation of §201, which is the section that makes applicable the rights and protections of the ADEA. Under the ADEA, there is no specific immunity for consideration of political party, domicile, or political compatibility.	Sec. 4; *29 U.S.C. §623.*
B. ENFORCEMENT.	
Agency Enforcement Authorities:	
9. Grant of subpoena power and other powers for investigations and hearings. The ADEA grants the EEOC subpoena and other investigatory powers for use in investigations and hearings. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§405(f) of the CAA grants subpoena powers to hearing officers, and §408 authorizes civil actions in which courts may issue subpoenas, but these CAA provisions do not grant subpoena powers for use in agency investigation).	Sec. 7(a); *29 U.S.C. §626(a), referencing* §9 of FLSA, *29 U.S.C. §209.*
10. Authority to receive and investigate charges and complaints and to conduct investigations on agency's initiative. Under authority of §7 of the ADEA, the EEOC investigates employee charges of ADEA violations and initiates investigations on its own initiative. The CAA neither references these provisions nor sets forth similar provisions authorizing agency investigations.	Sec. 7(a), (d); *29 U.S.C. §626(a), (d), and referencing* §11(a) of FLSA, *29 U.S.C. §211(a).*
11. Recordkeeping and reporting requirements. The ADEA empowers the EEOC to require the keeping of necessary and appropriate records in accordance with the powers in §11 of the FLSA. That section requires employers in the private sector to make and preserve such records and make such reports therefrom as the agency shall prescribe by regulation or order as necessary or appropriate for enforcement. EEOC regulations specify the ''payroll'' records that employers must maintain and preserve for at least 3 years and the ''personnel or employment'' records that employers must maintain and preserve for at least 1 year. 29 C.F.R. §1627.3. EEOC regulations further require that each employer ''shall make such extension, recomputation or transcriptions of his records and shall submit such reports concerning actions taken and limitations and classifications of individuals set forth in records'' as the EEOC or its representative may request in writing. 29 C.F.R. §1627.7. The CAA does not reference these provisions, and the Board, in issuing substantive regulations with respect to several other laws, found that recordkeeping and reporting requirements under those laws were not made applicable by the CAA.	Secs. 7(a); *29 U.S.C. §626(a), referencing* §11(c) of FLSA, *29 U.S.C. §211(c).*
12. Agency authority to bring judicial enforcement actions. The ADEA authorizes the EEOC to bring an action in district court seeking damages, including liquidated damages, and injunctive relief. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	Sec. 7(b); *29 U.S.C. §626(a), referencing* §§16(c), 17 of FLSA, *29 U.S.C. §§216(c), 217.*
13. Agency responsibility to ''seek to eliminate'' the violation. The ADEA requires that, upon receiving a charge, the EEOC must ''seek to eliminate any alleged unlawful practice'' by informal conference, conciliation, and persuasion, and, before instituting a judicial action, the agency must use such conciliation to ''attempt to eliminate the discriminatory practice or practices and to effect voluntary compliance.'' The CAA does not reference these provisions; it requires the mediation of allegations of discrimination and requires approval of settlements by the Executive Director, but does not require any person involved in the mediation or in approving the settlement to determine ''reasonable cause'' or to ''endeavor to eliminate'' the alleged discrimination.	Sec. 7(b), (d); *29 U.S.C. §626(b), (d).*
Administrative and Judicial Procedures and Remedies:	
14. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The ADEA authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to §413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 7(b)-(c); *29 U.S.C. §626(c), referencing* §16(b)-(c) of FLSA, *29 U.S.C. §216(b)-(c).*
15. Suing individuals as agent; possibility of individual liability. Because the definition of ''employer'' in the ADEA includes any agent, a plaintiff may choose to sue the employer by naming an individual in the capacity of agent. Furthermore, as noted with respect to Title VII at page 3, row 12, above, while many recent cases hold that individuals may not be held individually liable in discrimination cases, some courts hold to the contrary and the issue remains unresolved. Under the CAA, however, individuals may be neither sued nor held individually liable, because only an employing office may be named as respondent or defendant under §§401-408 and all awards and settlements must generally be paid out of an account of the Office of Compliance under §415(a).	Sec. 11(b) *29 U.S.C. §630(b).*
Defense:	
16. Defense for good faith reliance on agency interpretations. §7(e) of the ADEA provides that §10 of the Portal-to-Portal Act (''PPA'') shall apply to actions under the ADEA, and §10 of the PPA establishes a defense for an employer who relies in good faith on an interpretation by the EEOC. However, the CAA does not reference §7(e) of the ADEA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of provisions outside of §15. The ADEA thus differs from Title VII, as discussed at page 4, row 17, above, because the Title VII provisions referenced by the CAA contain no provision like ADEA §15(f) precluding the application of other statutory provisions.	Sec. 7(e); *29 U.S.C. §626(e), referencing* §10 of PPA, *29 U.S.C. §259.*
Damages:	
17. Liquidated damages for retaliation. §4(d) of the ADEA forbids discrimination against employees for exercising ADEA rights, and §7(b) of the ADEA provides that liquidated damages, in an amount equal to the amount otherwise owing because of a violation, shall be payable in cases of willful violations. Under the CAA, §201(a)(2)(B) incorporates ''such liquidated damages as would be appropriate if awarded under §7(b) of [the ADEA],'' but only for ''a violation of subsection (a)(2).'' §201(a)(2) does not reference §4(d) of the ADEA, but rather, §201(a)(2) prohibits discrimination within the meaning of §15 of the ADEA, 29 U.S.C. §633a, and §15 does not prohibit retaliation either expressly or by implication. *See Tomasello* v. *Rubin*, 920 F. Supp. 4 (D.D.C. 1996); *Koslow* v. *Hundt*, 919 F. Supp. 18 (D.D.C. 1995). Retaliation is prohibited by §207(a) of the CAA, but the remedy under §207(b) is ''such legal or equitable remedy as may be appropriate,'' with no express authority to award liquidated damages.	Secs. 4(d), 7(b); *29 U.S.C. §§623(d), 626(b), including reference* to §16(b) of FLSA, *29 U.S.C. §216(b).*
C. OTHER AGENCY AUTHORITIES	
18. Authority to issue written interpretations and opinions. §7(e) of the ADEA, referencing §10 of the PPA, establishes a defense for good-faith reliance on ''any written administrative regulation, order, ruling, approval, or interpretation'' of the EEOC, and the EEOC has established a process by which a request for an opinion letter may be submitted to the Commission. See 29 C.F.R. §§1626.17-1626.18. However, as noted at page 9, row 16, above, the CAA does not reference §7(e). Furthermore, as discussed in connection with Title VII at page 5, row 20, above, the Board has decided that the PPA defense was incorporated into §203 of the CAA, but that the Board would not provide authoritative interpretations and opinions outside of adjudicating individual cases.	Sec. 7(e); *29 U.S.C. §626(e), referencing* §10 of PPA, *29 U.S.C. §259.*
19. Notice-posting requirements. The ADEA requires employers, employment agencies, and unions to post notices prepared or approved by the EEOC. The CAA does not reference these provisions, and the Board, in issuing substantive regulations as to several other laws, found that notice-posting requirements under those laws were not incorporated by the CAA.	Sec. 8; *29 U.S.C. §627.*
20. Substantive rulemaking authority. Under §9 of the ADEA, the EEOC promulgates substantive as well as procedural regulations applicable to the private sector. §9 is not referenced by the CAA, and §201 of the CAA, unlike most other CAA sections, does not require that the Board adopt implementing regulations. §304 of the CAA, which establishes the process by which the Board adopts substantive regulations, specifies that such regulations ''shall include regulations the Board is required to issue under title II [of the CAA],'' but does not state explicitly whether the Board has authority to promulgate regulations, at its discretion, that the Board is not required to issue. Furthermore, §201(a)(2) of the CAA references §15 of the ADEA, which, in subsection (b), requires the EEOC to issue regulations, orders, and instructions applicable to the executive branch and requires each federal agency covered by §15 to comply with them. The CAA does not state expressly whether the reference to §15 makes subsection (b) of that section applicable, and, specifically, whether employing offices must comply with regulations, orders, and instructions promulgated by the EEOC under §15(b), or whether the Board can exercise the authority of the EEOC under §15(b) to issue regulations, orders, and instructions binding on employing offices.	Sec. 9; *29 U.S.C. §628.*
21. Authority to grant ''reasonable exemptions'' in the ''public interest.'' With respect to the private sector, §9 of the ADEA authorizes the EEOC to establish ''reasonable exemptions'' from the ADEA ''as it may find necessary and proper in the public interest.'' §9 is not referenced by the CAA, and §15 of the ADEA, which is referenced by §201(a)(2) of the CAA, contains a subsection (f) that specifically precludes the application of any provision outside of §15. However, §15(b) of the ADEA authorizes the EEOC to establish ''[r]easonable exemptions'' for the executive branch upon determining that age is a BFOQ. The CAA does not state expressly whether the reference to §15 makes subsection (b) of that section applicable, and, specifically, whether any BFOQs granted by the EEOC under §15(b) would apply to employing offices, or whether the Board can exercise the authority of the EEOC under §15(b) to issue BFOQs applicable to employing offices.	Sec. 9; *29 U.S.C. §628.*

AMERICANS WITH DISABILITIES ACT OF 1990 (''ADA'')

TITLE I—EMPLOYMENT

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Employment discrimination against an individual employed by another employer. § 102(a) of the ADA forbids employment discrimination by covered employers against ''a qualified individual with a disability.'' As discussed at page 1, row 1, above, courts have held that a Title VII provision forbidding discrimination against ''any individual'' extends, under certain circumstances, beyond the immediate employer-employee relationship, including where a defendant who does not employ an individual controls that individual's access to employment with another employer and denies access based on unlawful criteria. Under the CAA, an employing office may only be charged with discrimination by a ''covered employee,'' defined as an employee of the nine legislative-branch employers listed in § 101(3).	Sec. 102(a); *42 U.S.C. § 12112(a).*

AMERICANS WITH DISABILITIES ACT OF 1990 (''ADA'')—Continued

2. Coverage of unions. § 102 of the ADA forbids discrimination by unions in the private sector, and these provisions may be enforced against private-sector unions under § 107(a) of the ADA. The CAA does not make these provisions applicable to unions discriminating against legislative branch employees, because § 201 of the CAA only forbids discrimination in ''personnel actions'' and §§ 401–408 allow complaints only against employing offices. (Unlawful discrimination by a union may be an unfair labor practice under § 220 of the CAA, but the procedures and remedies under that section are very different from those under the ADA and under the CAA for violations of ADA rights and protections.) As noted at page 1, row 3, above, a similar situation exists in the executive branch, where § 717 of Title VII does not cover discrimination by unions against executive branch employees, but courts and the EEOC are divided as to whether the private-sector provisions of Title VII and 42 U.S.C. § 1981 apply by their own terms to such discrimination. Similarly differing views might be expressed with respect to whether the ADA applies by its own terms to forbid discrimination by unions against legislative-branch employees.	Secs. 102, 107(a); *42 U.S.C. §§ 12112, 12117(a).*
3. Consideration of political party, domicile, or political compatibility. Under the CAA, § 502 provides that consideration of political party, domicile, or political compatibility by Members, committees, or leadership offices shall not be a violation of § 201, which is the section that makes applicable the rights and protections of title I of the ADA. Under the ADA, there is no specific immunity for consideration of political party, domicile, or political compatibility.	Secs. 102–103; *42 U.S.C. § 12112–12113.*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
4. Agency responsibility to investigate charges filed by an employee or Commission Member. The ADA requires the EEOC to investigate charges brought by an employee or by a Member of the Commission. The CAA neither references these provisions nor sets forth similar provisions authorizing agency investigation.	Sec. 107(a); *42 U.S.C. § 12117(a), referencing* § 706(b) of Title VII, *42 U.S.C. § 2000e–5(b).*
5. Agency responsibility to determine ''reasonable cause'' and to ''endeavor to eliminate'' the violation by informal conciliation. The ADA requires that, upon the filing of a charge, the EEOC must determine whether ''there is reasonable cause to believe that the charge is true'' and ''endeavor to eliminate any such alleged unlawful employment practice'' by informal conference, conciliation, and persuasion. The CAA does not reference these provisions; it requires the mediation of allegations of discrimination and requires approval of settlements by the Executive Director, but does not require any person involved in the mediation or in approving the settlement to determine ''reasonable cause'' or to ''endeavor to eliminate'' the alleged discrimination.	. . . *referencing* § 706(b) of Title VII, *42 U.S.C.* § 2000e–5(b).
6. Agency authority to bring judicial enforcement actions. The ADA authorizes the EEOC to bring a civil action. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	. . . *referencing* § 706(f)(1) of Title VII, *42 U.S.C. § 2000e–5(f)(1).*
7. Agency authority to intervene in private civil action of general public importance. Under the ADA, the EEOC may intervene in a private action of general public importance. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to intervene in private actions.	. . . *referencing* § 706(f)(1) of Title VII, *42 U.S.C. § 2000e–5(f)(1).*
8. Agency authority to apply to court for enforcement of judicial orders. The ADA authorizes the EEOC to commence judicial proceedings to compel compliance with judicial orders. The CAA does not reference these provisions. § 407(a)(2) of the CAA enables the Office of Compliance to petition the Court of Appeals to enforce final orders of a hearing officer or the Board, but the CAA sets forth no provision enabling an agency to seek the enforcement of judicial orders.	. . . *referencing* § 706(i) of Title VII, *42 U.S.C. § 2000e–5(i).*
9. Grant of subpoena power and other general powers for investigations and hearings. The ADA grants the EEOC access to evidence, including subpoena powers, in support of its investigations and hearings. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA provisions do not grant subpoena powers for use in agency investigation.)	. . . *referencing* §§ 709(a), 710 of Title VII, *42 U.S.C. §§ 2000e–8(a), 2000e–9.*
10. Recordkeeping and reporting requirements. The ADA incorporates Title VII provisions requiring private-sector employers to make and preserve such records and make such reports therefrom as the EEOC shall prescribed by regulation or order, after public hearing, as reasonable, necessary, or appropriate for enforcement. EEOC regulations require that all personnel or employment records generally be preserved for 1 year and reserve the agency's right to impose special reporting requirements on individual employers or groups of employers. 29 C.F.R. § 1602.11. The CAA does not reference these provisions, and the Board, in issuing substantive regulations with respect to several other laws, found that recordkeeping and reporting requirements under those laws were not incorporated by the CAA.	. . . *referencing* § 709(c) of Title VII, *42 U.S.C. § 2000e–8(c).*
Administrative and Judicial Procedures and Remedies:	
11. Suing individuals as agent; possibility of individual liability. Because the definition of ''employer'' under the ADA includes any agent, a plaintiff may choose to sue the employer by naming an individual in the capacity of agent. Furthermore, as noted with respect to Title VII at page 3, row 12, above, while many recent cases hold that individuals may not be held individually liable in discrimination cases, some courts hold to the contrary and the issue remains unresolved. Under the CAA, individuals may be neither sued nor held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Sec. 101(5)(A); *42 U.S.C. § 12111(5)(A).*
12. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The ADA authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 107(a); *42 U.S.C. § 12117(a), referencing* § 706(f)(1) of Title VII, *42 U.S.C. § 2000e–5(f)(1).*
13. Appointment of counsel and waiver of fees. The ADA authorizes the court to appoint an attorney for the complainant in a private action and to waive costs. The CAA does not reference these provisions. In judicial proceedings under the CAA, the courts may exercise their general powers to authorize proceedings *in forma pauperis* and waive fees and costs and appoint counsel if a party is unable to pay. See 28 U.S.C. § 1915. In administrative proceedings under the CAA, there are no fees and costs to waive, but there is also no power to appoint counsel.	. . . *referencing* § 706(f)(1) of Title VII, *42 U.S.C. § 2000e–5(f)(1).*
14. Agency authority to apply for TRO or preliminary relief. § 107(a) of the ADA, which references § 706(f)(1) of Title VII, authorizes the EEOC to bring an action for a TRO or preliminary relief pending resolution of a charge. The CAA neither references § 107(a) of the ADA nor sets forth similar provisions authorizing TROs or preliminary relief, and the CAA does not allow a covered employee to commence an administrative complaint or civil action until after having completed periods of counseling and mediation and an additional period of at least 30 days.	. . . *referencing* §706(f)(2) of Title VII, *42 U.S.C. § 2000e–5(f)(2).*
Punitive Damages:	
15. Punitive damages. Punitive damages are available in cases of malice or reckless indifference brought under title I of the ADA. The CAA does not reference this provision, and § 225(c) of the CAA expressly precludes the awarding of punitive damages.	42 U.S.C. § 1981a(b)(1).
OTHER AGENCY AUTHORITIES	
16. Notice-posting requirements. The ADA requires employers, employment agencies, and unions and joint labor-management committees to post notices prepared or approved by the EEOC. The CAA does not reference these provisions, and the Board, in issuing substantive regulations with respect to several other laws, found that notice-posting requirements under those laws were not incorporated by the CAA.	Sec. 105; *42 U.S.C. § 12115.*
17. Substantive rulemaking authority. Under § 106 of the ADA, the EEOC promulgates both procedural and substantive regulations. § 106 is not referenced by the CAA, and § 201, unlike most other sections of title II of the CAA, contains no requirement that the Board adopt implementing regulations. § 304 of the CAA, which establishes the process by which the Board adopts substantive regulations, specifies that such regulations ''shall include regulations the Board is required to issue under title II,'' but does not state explicitly whether other regulations, which the Board is not required to issue, may be issued at the Board's discretion.	Sec. 106; *42 U.S.C. § 12116.*
TITLE II—PUBLIC SERVICES	
ENFORCEMENT	
Agency Enforcement Authorities:	
18. Agencies must investigate any alleged violation, even if not charged by a qualified person with a disability. Title II of the ADA affords the remedies, procedures, and rights set forth in § 505 of the Rehabilitation Act of 1973 to ''any person alleging discrimination.'' The regulations of the Attorney General (''AG'') implementing title II require that, if any ''individual who believes that he or she or a specific class of individuals'' has been subject to discrimination files a complaint, then the appropriate federal agency must investigate the complaint. 28 C.F.R. §§ 35.170(a), 35.172(a). Under the CAA, § 210(d)(1), (f) provides express authority for the General Counsel to investigate only when ''[a] qualified person with a disability, . . . who alleges a violation[,] . . . file[s] a charge'' and in ''periodic inspections'' that are ''[o]n a regular basis, and at least once each Congress.''	Sec. 203; *42 U.S.C. § 12133, referencing* § 505 of Rehabilitation Act of 1973, *29 U.S.C. § 794a.*
19. Agencies must issue ''Letter of Findings'' and endeavor to ''secure compliance by voluntary means.'' Title II of the ADA affords the remedies, procedures, and rights of § 505 of the Rehabilitation Act, and § 505 incorporates the remedies, procedures and rights of titles VI and VII of the Civil Rights Act of 1964 (''CRA''). § 602 in title VI of the CRA provides that enforcement action may be taken only if the federal agency concerned ''has determined that compliance cannot be secured by voluntary means.'' The AG's regulations implementing title II of the ADA require that the Federal agency investigating a complaint must issue a Letter of Findings, 28 C.F.R. § 35.172, and, if noncompliance is found, the agency must initiate negotiations ''to secure voluntary compliance'' and any compliance agreement must specify the action that will be taken ''to come into compliance'' and must ''[p]rovide assurance that discrimination will not recur,'' 28 C.F.R. § 35.173. The CAA does not reference these provisions. Under the CAA, § 210(d)(2) authorizes the General Counsel to request mediation between the charging individual and the responsible entity, and the CAA requires approval of any settlement by the Executive Director. However, the General Counsel is specifically forbidden to participate in the mediation, and the CAA does not require any person involved in the mediation or in approving the settlement to make findings as to compliance or noncompliance or to endeavor ''to secure voluntary compliance.''	Sec. 203; *42 U.S.C. § 12133, referencing* § 602 of title VI of the CRA, *42 U.S.C. § 2000d–1.*
20. Attorney General's authority to bring enforcement proceeding without a charge by a qualified person with a disability. Under title II of the ADA and under regulations of the AG, if a federal agency receives a complaint from any individual who believes there has been discrimination and is unable to secure voluntary compliance, the agency may refer the matter to the AG for enforcement. 28 C.F.R. § 35.174; *see U.S.* v. *Denver,* 927 F. Supp. 1396, 1399–1400 (D. Col. 1996). Under the CAA, § 210(d)(3) authorizes the General Counsel to file an administrative complaint only after ''[a] qualified person with a disability, . . . who alleges a violation[,] . . . file[s] a charge.''	Sec. 203; *42 U.S.C. § 12133.*

AMERICANS WITH DISABILITIES ACT OF 1990 (''ADA'')—Continued

21. Attorney General's authority to bring enforcement action in federal district court. The AG enforces against a violation of ADA title II by filing an action in federal district court. Under the CAA, § 210(d)(3) authorizes the General Counsel to enforce by filing an administrative complaint, but not by commencing an action in court.	Sec. 203; *42 U.S.C. § 12133.*
Judicial Procedures and Remedies:	
22. Private right of action. Under title II of the ADA, both employees and non-employees of a public entity may sue a public entity for discrimination on the basis of disability. Under the CAA, non-covered-employees have no right to sue or bring administrative proceedings under § 210 or any other section of the CAA. (As discussed at page 16, row 23, below, covered employees may sue or bring administrative complaints under § 201 and §§ 401–408 of the CAA.)	Sec. 203; *42 U.S.C. § 12133.*
23. Private right to sue immediately, without having exhausted administrative remedies. Both employees and non-employees of a non-federal public entity may sue under title II of the ADA immediately, regardless of whether administrative remedies have been exhausted.[1] Under the CAA, covered employees may not file an administrative complaint or commence a civil action until after having completed periods of counseling and mediation and an additional period of at least 30 days. (As discussed at page 15, row 22, above, non-covered-employees have no private right of action.)	Sec. 203; *42 U.S.C. § 12133.*
Damages:	
24. Monetary damages. § 203 of the ADA incorporates the remedies of titles VI and VII of the CRA, as noted in page 15, row 19, above. Title VII does not provide for damages other than back pay under § 706(g)(1) in connection with hiring or reinstatement, but, under title VI, courts have inferred a private right to recover damages for an intentional violation. *Franklin* v. *Gwinnett County Public Schools,* 503 U.S. 60, 70, 112 S. Ct. 1028, 1035 (1992). Under the CAA, § 210(c) incorporates the remedies under § 203 of the ADA. However, a court has held that the Federal Government is immune, under sovereign immunity principles, against the implied right to recover damages under title VI as incorporated by § 505 of the Rehabilitation Act. *Dorsey* v. *U.S. Dep't of Labor,* 41 F.3d 1551 (D.C. Cir. 1994).	Sec. 203; *42 U.S.C. § 12133, referencing* title VI and §§ 706(f)–(k), 716 of the CRA, *42 U.S.C. §§ 2000d et seq., 2000e–5(f)–(k), 2000e–16.*
TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES	
ENFORCEMENT	
Agency Enforcement Authorities:	
25. Attorney General may investigate whenever there is reason to believe there may be a violation, even if not charged by a qualified person with a disability. Title III of the ADA requires the AG to investigate alleged violations and to undertake periodic compliance reviews. The AG's regulations implementing title III specify that ''[a]ny individual who believes that he or she or a specific class of persons'' has been subject to discrimination may request an investigation, and that, whenever the AG ''has reason to believe'' there may be a violation, the AG may initiate a compliance review. 28 C.F.R. § 36.502. The CAA does not reference these provisions, and § 210(d)(1), (f) of the CAA provides express authority for the General Counsel to investigate only when ''[a] qualified person with a disability, . . . who alleges a violation[,] . . . file[s] a charge'' and in ''periodic inspections'' that are ''[o]n a regular basis, and at least once each Congress.''.	Sec. 308(b)(1)(A)(i); *42 U.S.C. § 12188(b)(1)(A)(i).*
26. Attorney General's authority to bring enforcement action without a charge by a qualified person with a disability. Under title III of the ADA, if the AG has reasonable cause to believe that there is discrimination that constitutes a pattern or practice of discrimination or that raises an issue of general public importance, the AG may commence a civil action. These provisions are not referenced by the CAA. § 210(d)(3) of the CAA authorizes the General Counsel to file an administrative complaint only in response to a charge filed by a qualified person with a disability who alleges a violation.	Sec. 308(b)(1)(B); *42 U.S.C. § 12188(b)(1)(B).*
27. Attorney General's authority to bring enforcement action in federal district court. The AG brings enforcement actions, as noted at page 17, row 26, above, by filing an action in federal district court. These provisions are not referenced by the CAA. § 210(d)(3) of the CAA authorizes the General Counsel may bring an enforcement action by filing an administrative complaint, but not by commencing an action in court.	Sec. 308(b)(1)(B); *42 U.S.C. § 12188(b)(1)(B).*
Judicial Procedures and Remedies:	
28. Private right of action. A private right of action is available for violations of title III of the ADA. The CAA neither references these provisions nor sets forth similar provisions establishing a private right to commence either an administrative or judicial proceedings.	Sec. 308(a); *42 U.S.C. § 12188(a).*
Damages and Penalties:	
29. Monetary damages. § 308(b)(2)(B) of the ADA provides that, when the AG brings a civil action, he or she may ask the court to award monetary damages to the person aggrieved. The CAA does not reference § 308(b)(2)(B), but, rather, § 210(c) of the CAA references the remedies under §§ 203 and 308(a) of the ADA. § 203 of the ADA references the remedies of titles VI and VII of the CRA, as noted in row 19 above, and § 308(a) of the ADA references the remedies of title II of the CRA, 42 U.S.C. §§ 2000a–3(a). Neither title II nor title VII of the CRA provides for damages, other than back pay under § 706(g)(1) of title VII in connection with hiring or reinstatement. Courts have inferred a private right to recover damages under title VI of the CRA, but, as discussed at page 16, row 24, above, the Federal Government may be immune. Furthermore, the remedies of title VI of the CRA are referenced by § 203 of title II of the ADA, not by § 308(a) of title III of the ADA, and might therefore not be available for a violation of title III rights and protections as made applicable by § 210 of the CAA.	Sec. 308(b)(2)(B); *42 U.S.C. § 12188(b)(2)(B).*
30. Civil penalties. In a civil action brought by the Attorney General under title III of the ADA, the court may assess a civil penalty. The CAA does not reference this provision and § 225(c) of the CAA specifically disallows the assessment of civil penalties.	Sec. 308(b)(2)(C); *42 U.S.C. § 12188(b)(2)(C).*
TITLE V—MISCELLANEOUS PROVISIONS	
SUBSTANTIVE RIGHTS AND PROTECTIONS	
31. Retaliation against employees of other employers. § 503 of the ADA protects ''any individual'' against retaliation for asserting, exercising, or enjoying rights under the ADA. Employers' obligations under this section are not expressly limited to their own employees, and, in the context of the retaliation provision in the OSHAct, the Labor Department has construed the term ''any employee'' to forbid employers to retaliate against employees of other employers, as discussed at page 32, row 1, below. § 503 is not referenced by the CAA, and § 207 of the CAA, which sets forth provisions prohibiting retaliation, applies by its terms to covered employees only.	Sec. 503; *42 U.S.C. § 12203.*
32. Retaliation against non-employees exercising rights with respect to public entities or public accommodations. § 503 of the ADA protects any individual against retaliation for asserting, exercising, or enjoying rights under the ADA. Such individuals may include non-employees who exercise or enjoy rights with respect to public entities under title II of the ADA or public accommodations under title III of the ADA. § 503 is not referenced by the CAA, and § 207 of the CAA, which sets forth provisions establishing retaliation protection, applies by its terms to covered employees only.	Sec. 503; *42 U.S.C. § 12203.*

[1] *See Tyler* v. *Manhattan,* 857 F. Supp. 800, 812 (D. Kan. 1994); *Ethridge* v. *Alabama,* 847 F. Supp. 903, 907 (M.D. Ala. 1993); *Noland* v. *Wheatley,* 835 F. Supp. 476, 482 (N.D. Ind. 1993); *Petersen* v. *University of Wisconsin,* 818 F. Supp. 1276, 1279 (W.D. Wis. 1993); *Bledsoe* v. *Palm Beach County Soil and Water Conserv. Dist.,* 133 F.3d 816, 824 (11th Cir. 1998) (dictum).

FAMILY AND MEDICAL LEAVE ACT OF 1993 (''FMLA'')

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Duties owed by ''secondary'' employers to employees hired and paid by temp agencies and another ''primary'' employers. The FMLA defines ''employer'' to include any person ''who acts, directly or indirectly, in the interest of an employer'; makes it unlawful for any employer to interfere with the exercise of FMLA rights; and forbids employers and other persons from retaliating against ''any individual.'' The Labor Secretary, citing this statutory authority, promulgated regulations on ''joint employment'' that prohibit ''secondary employers'' from interfering with the exercise of FMLA rights by employees hired and paid by a ''primary'' employer, e.g., by a temporary help or leasing agency. 29 C.F.R. § 825.106(f); 60 Fed. Reg. 2180, 2183 (Jan. 8, 1995). Under the CAA, individuals who are not employees of the nine legislative-branch employers in § 101(3) are outside the definition of ''covered employee'' and are not covered by family and medical leave protection under § 202(a) or by retaliation protection under § 207(a), regardless of whether an employing office would be considered the ''secondary employer'' within the meaning of the Labor Secretary's regulations. The Board, in promulgating its implementing regulations, stated specifically that employees of temporary and leasing agencies are not covered by the CAA. 142 Cong. Rec. S196, S198 (daily ed. Jan. 22, 1996).	Secs. 101(4)(A)(ii)(I), 105(a)(1)-(2), (b); *29 U.S.C. §§ 2611(4)(A)(ii)(I), 2615(a)(1)-(2), (b).*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
2. Agency's general authority to investigate to ensure compliance, and responsibility to investigate complaints of violations. § 106(a) of the FMLA authorizes the Labor Secretary generally to make investigations to ensure compliance, and § 107(b)(1) specifically requires the Labor Secretary to receive, investigate, and attempt to resolve complaints of violations. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to conduct investigations.	Sec. 106(a), 107(b)(1); *29 U.S.C. §§ 2616(a), 2617(b)(1).*
3. Grant of subpoena and other investigatory powers. The FMLA grants the Labor Secretary subpoena and other investigatory powers for any investigations. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA provisions do not grant subpoena powers for use in agency investigation.).	Sec. 106(a), (d); *29 U.S.C. § 2616(a), (d).*
4. Recordkeeping and reporting requirements. The FMLA requires private-sector employers to make and preserve records pertaining to compliance in accordance with § 11(c) of the FLSA and in accordance with regulations issued by the Labor Secretary. § 11(c) of the FLSA requires every employer to make and preserve such records and to make such reports therefrom as the Wage and Hour administrator shall prescribe by regulation or order. The Secretary's FMLA regulations specify the records regarding payroll, benefits, and FMLA leave and disputes that employers must maintain and preserve for 3 years, and indicate that employers must submit records specifically requested by a Departmental official and must prepare extensions or transcriptions of information in the records upon request. 29 C.F.R. § 825.500(a)–(b). The CAA does not reference these statutory provisions, and the Board, in adopting implementing regulations under § 202 of the CAA, found that the CAA explicitly did not make these requirements applicable.	Sec. 106(b)-(c); *29 U.S.C. § 2616(b)-(c), referencing* § 11(c) of the FLSA, *29 U.S.C. § 211(c).*

FAMILY AND MEDICAL LEAVE ACT OF 1993 (''FMLA'')—Continued

5. Agency authority to bring judicial enforcement actions. The FMLA authorizes the Labor Secretary to bring a civil action to recover damages, and grants the district courts jurisdiction, upon application of the Labor Secretary, to restrain violations and to award other equitable relief. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	Sec. 107(b)(2), (d); *29 U.S.C. § 2617(b)(2), (d).*
Judicial Procedures and Remedies:	
6. Individual liability. Because the definition of ''employer'' under the FMLA includes any person who ''acts, directly or indirectly, in the interest of an employer,'' the weight of authority is that individuals may be held individually liable in an action under § 107 of the FMLA.[1] Under the CAA, individuals may not be held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Secs. 101(4)(A)(ii)(I), 107; *29 U.S.C. §§ 2611(4)(A)(ii)(I), 2617.*
7. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The FMLA authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 107(a)(2); *29 U.S.C. § 2617(a)(2).*
8. Private right to sue immediately, without having exhausted administrative remedies. An employee who alleges an FMLA violation may choose to sue immediately, without exhausting any administrative remedies. The CAA allows a covered employee to file an administrative complaint or commence a civil action only after having completed periods of counseling and mediation and an additional period of at least 30 days.	Sec. 107(a); *29 U.S.C. § 2617(a).*
9. Two- or 3-year statute of limitations. A civil action may be brought under the FMLA within two years after the violation ordinarily, or, in the case of a willful violation, within three years. Proceedings under the CAA must be commenced within 180 days after the alleged violation.	Sec. 107(c); *29 U.S.C. § 2617(c).*
C. OTHER AGENCY AUTHORITIES	
10. Notice-posting requirements. The FMLA requires employers to post notices prepared or approved by the Labor Secretary, and establishes civil penalties for a violation. The CAA does not reference these provisions, and, in adopting implementing regulations, the Board found that the CAA explicitly did not incorporate these requirements.	Sec. 109; *29 U.S.C. § 2619.*

[1] *See Beyer* v. *Elkay Manufacturing Co.,* 1997 WL 587487 (N.D. Ill. Sept. 19, 1997) (No. 97-C-50067) (holding that the term ''employer'' in the FMLA should be construed the same as ''employer'' in the FLSA, which allows individual liability); *Knussman* v. *Maryland,* 935 F.Supp. 659, 664 (D. Md. 1996); *Johnson* v. *A.P. Products, Ltd.,* 934 F.Supp. 625 (S.D.N.Y. 1996); *Freeman* v. *Foley,* 911 F.Supp. 326, 330-32 (N.D. Ill. 1995); 29 C.F.R. § 825.104(d) (Labor Department regulations). *Contra Frizzell* v. *Southwest Motor Freight, Inc.,* 906 F.Supp. 441, 449 (E.D. Tenn. 1995) (holding that the term ''employer'' in FMLA should be construed the same as ''employer'' in Title VII, which does not allow individual liability).

FAIR LABOR STANDARDS ACT OF 1938 (''FLSA'')

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
Prohibition against compensatory time off. Under the FLSA, employers generally may neither require nor allow employees to receive compensatory time off in lieu of overtime pay. § 203 of the CAA makes this prohibition generally applicable, but provisions of the CAA and other laws establish exceptions:	Sec. 7(a); *29 U.S.C. § 207(a).*
1. Coverage of Capitol Police officers. § 203(c)(4) of the CAA, as amended, allows Capitol Police officers to elect time off in lieu of overtime pay.	
2. Coverage of employees whose work schedules directly depend on the House and Senate schedules. § 203(c)(3) of the CAA requires the Board to issue regulations concerning overtime compensation for covered employees whose work schedule depends directly on the schedule of the House and Senate, and § 203(a)(3) provides that, under those regulations, employees may receive compensatory time off in lieu of overtime pay.	
3. Coverage of salaried employees of the Architect of the Capitol. 5 U.S.C. § 5543(b) provides that the Architect of the Capitol may grant salaried employees compensatory time off for overtime work. The CAA does not state expressly whether it repeals this authority.	
Interns are not covered. § 203(a)(2) of the CAA excludes ''interns,'' as defined in regulations issued by the Board, from the coverage of all rights and protections of the FLSA:	
4. Minimum wage	Sec. 6(a); *29 U.S.C. § 206(a).*
5. Entitlement to overtime pay. Interns are excluded from coverage under the entitlement receive overtime pay	Sec. 7(a); *29 U.S.C. § 207(a).*
6. Equal Pay Act provisions. Interns are excluded from coverage under Equal Pay provisions, prohibiting sex discrimination in the payment of wages	Sec. 6(d); *29 U.S.C. § 206(d).*
7. Child labor protections. Interns are excluded from coverage under child labor protections	Sec. 12(c); *29 U.S.C. § 212(c).*
8. Coverage of unions under Equal Pay provisions. The Equal Pay provisions at § 6(d)(2) of the FLSA forbid unions in the private-sector to cause or attempt to cause an employer to discriminate on the basis of sex in the payment of wages, and these provisions may be enforced against private-sector unions under § 16(b) of the FLSA. Under the CAA, § 203(a)(1) makes the rights and protections of § 6(d) of the FLSA applicable to covered employees, but no mechanism is expressly provided for enforcing these rights and protections against unions, because §§ 401–408 of the CAA allow complaints only against employing offices. (Unlawful discrimination by a union may be an unfair labor practice under § 220 of the CAA, but the procedures and remedies under that section are very different from those under the FLSA and under the CAA for violations of Equal Pay rights and protections.) As noted at page 1, row 3, above, a similar situation exists in the executive branch, where § 717 of Title VII does not cover discrimination by unions against executive branch employees, but courts and the EEOC are divided as to whether the private-sector provisions of Title VII and 42 U.S.C. § 1981 apply by their own terms to such discrimination. Similarly, differing views might be expressed with respect to whether §§ 6(d)(2) and 16(b) of the FLSA apply by their own terms to prohibit discrimination by unions against legislative-branch employees.	Secs. 6(d)(2), 16(b); *29 U.S.C. §§ 206(d), 216(b).*
9. Prohibition of retaliation by ''persons,'' including unions, not acting as employers. § 15(a)(3) of the FLSA forbids retaliation by any ''person'' against an employee for exercising rights under the FLSA, and § 3(a) defines ''person'' broadly to include any ''individual'' and any ''organized group of persons.'' This definition is broad enough to include a labor union, its officers, and members. *See Bowe* v. *Judson C. Burns, Inc.,* 137 F.2d 37 (3d Cir. 1943). The CAA does not reference § 15(a)(3) of the FLSA, and § 207 of the CAA forbids retaliation only by employing offices.	Sec. 15(a)(3); *29 U.S.C. § 215(a)(3).*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
10. Grant of subpoena and other powers for use in investigations and hearings. § 9 of the FLSA grants the Labor Secretary subpoena and other investigatory powers for use in investigations and hearings. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA provisions do not grant subpoena powers for use in agency investigation.)	Sec. 9; *29 U.S.C. § 209.*
11. Agency authority to investigate complaints of violations and to conduct agency initiated investigations. Under authority of § 11(a) of the FLSA, the Wage and Hour Division investigates complaints of violations and also conducts agency-initiated investigations. The CAA neither references these provisions nor sets forth similar provisions authorizing agency investigation.	Sec. 11(a); *29 U.S.C. § 211(a).*
12. Recordkeeping and reporting requirements. The FLSA requires employers in the private sector to make and preserve such records and to make such records therefrom as the Wage and Hour Administrator shall prescribe by regulation or order as necessary or appropriate for enforcement. Labor Department regulations specify the ''payroll'' and other records that must be preserved for at least 3 years and the ''employment and earnings'' records that must be preserved for at least 2 years, and require each employer to make ''such extension, recomputation, or transcription'' of required records, and to submit such reports concerning matters set forth in the records, as the Administrator may request in writing. 29 C.F.R. §§ 516.5–516.8. As to the Equal Pay provisions, EEOC regulations require employers to keep records in accordance with The CAA does not reference these provisions, and, in adopting implementing regulations, the Board found that the CAA explicitly did not made these requirements applicable.	Sec. 11(c); *29 U.S.C. § 211(c).*
13. Agency authority to bring judicial enforcement actions. The FLSA authorizes the Labor Secretary to bring an action in district court to recover unpaid minimum wages or overtime compensation, and an equal amount of liquidated damages, and civil penalties, as well as injunctive relief. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	Secs. 16(c), 17; *29 U.S.C. §§ 216(c), 217.*
Judicial Procedures and Remedies:	
14. Individual liability. Because the definition of ''employer'' under the FLSA includes any person who ''acts, directly or indirectly, in the interest of an employer,'' individuals may be held individually liable in an action under §16(b) of the FLSA. Under the CAA, individuals may not be held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Secs. 3(d), 16(b); *29 U.S.C. §§ 203(d), 216(b).*
15. Private right to sue immediately, without having exhausted administrative remedies. An employee who alleges an FLSA violation may sue immediately, without exhausting any administrative remedies. The CAA allows a covered employee to file an administrative complaint or commence a civil action only after having completed periods of counseling and mediation and an additional period of at least 30 days.	Sec. 16(b); *29 U.S.C. § 216(b).*
16. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The FLSA authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 16; *29 U.S.C. § 216.*
17. Injunctive relief. § 17 of the FLSA grants jurisdiction to the district courts, upon the complaint of the Labor Secretary, to restrain violations. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to seek injunctive relief or granting a court or other tribunal jurisdiction to grant it.	Sec. 17; *29 U.S.C. § 217.*
18. Two- or 3-year statute of limitations. A civil action under the FLSA may be brought within two years after the violation ordinarily, or, in the case of a willful violation, within three years. Proceedings under the CAA must be commenced within 180 days after the alleged violation.	Secs. 6–7 of the Portal-to-Portal Act (''PPA''); *29 U.S.C. §§ 255–256.*

FAIR LABOR STANDARDS ACT OF 1938 (''FLSA'')—Continued

19. Remedy for a child labor violation. §§ 16(a), (e), and 17 of the FLSA provide for enforcement of child labor requirements through agency enforcement actions for civil penalties or injunction and by criminal prosecution. The CAA does not reference §§ 16(a), (e), or 17 of the FLSA. § 203(b) of the CAA references only the remedies of § 16(b) of the FLSA, and § 16(b) makes employers liable for: (*1*) damages if the employer violated minimum-wage or overtime requirements of the FLSA, and (*2*) legal or equitable relief if the employer violated the anti-retaliation requirements of the FLSA. The CAA thus does not expressly reference any FLSA provision establishing remedies for child labor violations.	Secs. 16(a), (e), 17; *29 U.S.C. §§ 216(a), (e), 217.*
Liquidated Damages; Civil and Criminal Penalties:	
20. Criminal penalties. The FLSA makes fines and imprisonment available for willful violations. The CAA neither references these provisions nor sets forth similar provisions imposing criminal penalties.	Sec. 16(a); *29 U.S.C. § 216(a).*
21. Liquidated damages for retaliation. § 15(a)(3) of the FLSA prohibits discrimination against an employee for exercising FLSA rights, and § 16(b) provides that an employer who violates § 15(a)(3) is liable for legal or equitable relief and ''an additional equal amount as liquidated damages.'' Under the CAA, § 203(b) incorporates the remedies of §16(b) of the FLSA and explicitly includes ''liquidated damages,'' but only ''for a violation of subsection (a),'' and § 203(a) does not reference § 15(a)(3) of the FLSA or otherwise prohibit retaliation. Retaliation is prohibited by § 207(a) of the CAA, but the remedy under § 207(b) is ''such legal or equitable remedy as may be appropriate,'' with no express authority to award liquidated damages.	Sec. 16(b); *29 U.S.C. § 216(b).*
22. Civil penalties. The FLSA authorizes the Labor Secretary or the court to assess civil penalties for child labor violations or for repeated or willful violations of the minimum wage or overtime requirements. The CAA does not reference these provisions, and § 225(c) of the CAA expressly precludes the awarding of civil penalties under the CAA.	Sec. 16(e); *29 U.S.C. §216(e).*
C. OTHER AGENCY AUTHORITIES	
23. Agency issuance of interpretative bulletins. The Wage and Hour Administrator has issued a number of interpretative bulletins and advisory opinions, and § 10 of the PPA, 29 U.S.C. § 259, in establishing a defense for good-faith reliance, refers to the ''written administrative regulation, order, ruling, approval, or interpretation'' of the Administrator. Under the CAA, in adopting regulations implementing § 203, the Board stated that the Wage and Hour Division's legal basis and practical ability to issue interpretive bulletins and advisory opinions arises from its investigatory and enforcement authorities, and that, absent such authorities, ''it seems unwise, if not legally improper, for the Board to set forth its views on interpretive ambiguities in the regulations outside of the adjudicatory context of individual cases,'' and, further, that the Board ''would in the exercise of its considered judgment decline to provide authoritative opinions'' as part of its education and information programs. 142 Cong. Rec. S221, S222–S223 (daily ed. Jan. 22, 1996).	Secs. 9, 11, 16–17; *29 U.S.C. § 209, 211, 216–217.*
24. Requirements to post notices. Although the FLSA does not expressly require the posting of notices, the Labor Secretary promulgated regulations requiring employers to post notices informing employees of their rights. 29 C.F.R. § 516.4. In so doing, the Secretary relied on authority under § 11, which deals generally with the collection of information. 29 C.F.R. part 516 (statement of statutory authority). In adopting implementing regulations, the Board found that the CAA explicitly did not incorporate these notice-posting requirements.	Sec. 11; *29 U.S.C. § 211.*

[1] See, e.g., *U.S. Dep't of Labor* v. *Cole Enterprises,* 62 F.3d 775, 778 (6th Cir. 1995); *Reich* v. *Circle C. Investments, Inc.,* 998 F.2d 324, 329 (5th Cir. 1993); *Brock* v. *Hamad,* 867 F.2d 804, 809 n.6 (4th Cir. 1989); *Riordan* v. *Kempiners,* 831 F.2d 690, 694–95 (7th Cir. 1987); *Donovan* v. *Agnew,* 712 F.2d 1509, 1511 (1st Cir. 1983).

EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988 (''EPPA'')

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Coverage of Capitol Police. The EPPA applies to any employer in commerce, with no exception for private-sector police forces. Under the CAA, § 204(a)(3) authorizes the Capitol Police to use lie detectors in accordance with regulations issued by the Board under § 204(c), and the Board's regulations exempt the Capitol Police from EPPA requirements with respect to Capitol Police employees.	Secs. 2(1)–(2), 3(1)–(3), 7; *29 U.S.C. §§ 2001(1)–(2), 2002(1)–(3), 2006.*
B. ENFORCEMENT	
Agency Enforcement Authorities:	
2. Authority to make investigations and inspections. The EPPA authorizes the Labor Secretary to make investigations and inspections. The CAA neither references these provisions nor sets forth similar provisions authorizing investigations or inspections by an agency.	Sec. 5(a)(3); *29 U.S.C. § 2004(a)(3).*
3. Recordkeeping requirements. The EPPA authorizes the Labor Secretary to require the keeping of records necessary or appropriate for the administration of the Act. Labor Department regulations specify the records regarding any polygraph use that employers and examiners must maintain and preserve for 3 years. 29 C.F.R. § 801.30. The CAA does not reference these provisions, and, in adopting implementing regulations, the Board found that the CAA explicitly did not make these requirements applicable.	Sec. 5(a)(3); *29 U.S.C. § 2004(a)(3).*
4. Grant of subpoena and other powers for investigations and hearings. The EPPA grants the Labor Secretary subpoena and other investigatory powers for use in investigations and hearings. The CAA neither references these provisions nor sets forth similar provisions granting an agency investigatory powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA authorities do not grant subpoena powers for use in agency investigation.).	Sec. 5(b); *29 U.S.C. § 2004(b).*
5. Agency authority to bring judicial enforcement actions. The EPPA authorizes the Labor Secretary to bring an action in district court to restrain violations or for other legal or equitable relief. The CAA neither references these provisions nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	Sec. 6(a)–(b); *29 U.S.C. § 2005(a)–(b).*
Judicial Procedures and Remedies:	
6. Individual liability. The definition of ''employer'' under the EPPA includes any person who ''acts, directly or indirectly, in the interest of an employer.'' This definition is substantially the same as that in the FLSA and the FMLA. As discussed in connection with these laws at page 20, row 6, and page 24, row 14, above, individuals may be held individually liable under the FLSA, and, by the weight of authority, under the FMLA. Under the CAA, individuals may not be held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 of the CAA and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Secs. 2(2), 6; *29 U.S.C. §§ 2001(2), 2005.*
7. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The EPPA authorizes civil actions in which courts exercise their ordinary subpoena authority. The CAA also authorizes civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 6(c)(2); *29 U.S.C. § 2005(c)(2).*
8. Private right to sue immediately, without having exhausted administrative remedies. An employee who alleges an EPPA violation may sue immediately, without having exhausted any administrative remedies. The CAA allows a covered employee to file an administrative complaint or commence a civil action only after having completed periods of counseling and mediation and an additional period of at least 30 days.	Sec. 6(c)(2); *29 U.S.C. § 2005(c)(2).*
9. Three-year statute of limitations. A civil action under the EPPA may be brought within three years after the alleged violation. Proceedings under the CAA must be commenced within 180 days after the alleged violation.	Sec. 6(c)(2); *29 U.S.C. § 2005(c)(2).*
Civil Penalties:	
10. Civil penalties. The EPPA authorizes the assessment by the Labor Secretary of civil penalties for violations. The CAA does not reference these provisions, and § 225(c) of the CAA expressly precludes the awarding of civil penalties under the CAA.	Sec. 6(a); *29 U.S.C. § 2005(a).*
C. OTHER AGENCY AUTHORITIES	
11. Requirement to post notices. The EPPA requires employers to post notices prepared and distributed by the Labor Secretary. The CAA does not reference these provisions, and, in adopting implementing regulations, the Board found that the CAA explicitly did not incorporate these requirements.	Sec. 4; *29 U.S.C. § 2003.*

WORKER ADJUSTMENT AND RETRAINING NOTIFICAITON ACT (''WARN Act'')

A. SUBSTANTIVE RIGHTS AND PROTECTIONS	
1. Notification of state and local governments. The WARN Act requires the employer to notify not only affected employees, but also the state dislocated worker unit and the chief elected official of local government. Although § 205(a)(1) of the CAA references § 3 of the WARN Act for the purpose of incorporating the ''meaning'' of office closure and mass layoff, that section of the CAA sets forth provisions requiring notification of employees, but not of state and local governments.	Secs. 3(a), 5(a)(3); *29 U.S.C. §§ 2102(a), 2104(a)(3).*
B. ENFORCEMENT	
Judicial Procedures and Remedies:	
2. Representative of employees may bring civil action. The WARN Act allows a representative of employees to sue to enforce liability. The CAA does not reference these provisions, and §§ 401–408 of the CAA provide only for the commencement or proceedings by covered employees.	Sec. 5(a)(5); *29 U.S.C. § 2104(a)(5).*
3. Unit of local government may bring civil action. The WARN Act allows a unit of local government to sue to enforce liability. The CAA does not reference these provisions, and §§ 401–408 of the CAA provide only for the commencement or proceedings by covered employees.	Sec. 5(a)(5); *29 U.S.C. § 2104(a)(5).*
4. Private right to sue immediately, without having exhausted administrative remedies. An employee, union, or local government that alleges a WARN Act violation may sue immediately, without exhausting any administrative remedies. The CAA allows a covered employee to file an administrative complaint or commence a civil action only after having completed periods of counseling and mediation and an additional period of at least 30 days.	Sec. 5(a)(5); *29 U.S.C. § 2104(a)(5).*

WORKER ADJUSTMENT AND RETRAINING NOTIFICAITON ACT (''WARN Act'')—Continued

5. Limitations period borrowed from state law. The WARN Act does not provide a limitations period for the civil actions authorized by § 5, and the Supreme Court has held that limitations periods borrowed from state law should be applied to WARN Act claims. *North Star Steel Co.* v. *Thomas,* 515 U.S. 29, 115 S.Ct. 1927 (1995). Courts have generally applied state limitations periods to WARN Act claims ranging between one and six years. *See id.;* 29 U.S.C.A. § 2104 notes of decisions (Note 17—Limitations) (1997 suppl. pamphlet). Under the CAA, proceedings must be commenced within 180 days after the alleged violation.	Sec. 5(a)(5); *29 U.S.C. § 2104(a)(5).*

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994 (''USERRA')

ENFORCEMENT

Agency Enforcement Authorities:

1. Agency authority to bring judicial enforcement action. Under USERRA, if a private-sector employee files a complaint with the Labor Secretary, and if the Labor Secretary refers the complaint to the Attorney General, the Attorney General may commence an action in court on behalf of the employee. However, while the USERRA provisions establishing substantive rights and protections generally extend, by their own terms, to the legislative branch, the Attorney General's authority under USERRA does not. Furthermore, the CAA neither references the Attorney General's authority under the USERRA nor sets forth similar provisions authorizing an agency to bring enforcement proceedings.	38 U.S.C. § 4323(a)(1).
2. Grant of subpoena and other investigatory powers. Under USERRA, the Labor Secretary may receive and investigate complaints from private-sector employees, and may issue enforceable subpoenas in carrying out such an investigation. However, while the USERRA provisions authorizing the Secretary to receive and investigate complaints extend, by their own terms, to the legislative branch, the Secretary's power to issue subpoenas does not. Furthermore, the CAA neither references the Secretary's authority and powers under USERRA nor sets forth provisions granting an agency investigatory authority and powers. (§ 405(f) of the CAA grants subpoena powers to hearing officers, and § 408 authorizes civil actions in which courts may issue subpoenas, but these CAA authorities do not grant subpoena powers for use in agency investigation.).	38 U.S.C. § 4326(b)–(d).

Judicial Procedures and Remedies:

3. Individual liability. Because 38 U.S.C. § 4303(4)(A)(1) defines an ''employer'' in the private sector to include a ''person . . . to whom the employer has delegated the performance of employment-related responsibilities,'' two courts have held that individuals may be held individually liable in an action under 38 U.S.C. § 4323. *Jones* v. *Wolf Camera, Inc.,* Civ. A. No. 3:96–CV–2578–D, 1997 WL 22678, at *2 (N.D. Tex., Jan. 10, 1997); *Novak* v. *Mackintosh,* 919 F.Supp. 870, 878 (D.S.D. 1996). However, the USERRA provisions that authorize civil actions and damages do not, by their own terms, extend to the legislative branch. Under the CAA, while § 206(b) authorizes damages, individuals may not be held individually liable, because only an employing office may be named as respondent or defendant under §§ 401–408 of the CAA and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a) of the CAA.	38 U.S.C. §§ 4303(4)(A)(1), 4323.
4. Private right to sue immediately, without having exhausted administrative remedies. A private-sector employee alleging a USERRA violation may sue immediately, without exhausting any administrative remedies. However, USERRA does not, by its own terms, entitle legislative branch employees to either file an administrative complaint or commence a civil action. Under the CAA, a covered employee may file an administrative complaint or commence a civil action, but only after having completed periods of counseling and mediation and an additional period of at least 30 days.	38 U.S.C. § 4323(a)(2), (b).
5. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. USERRA authorizes civil actions against private-sector employees in which courts exercise their ordinary subpoena authority. As noted in row 4 above, USERRA does not, by its own terms, entitle legislative branch employees to either file an administrative complaint or commence a civil action. The CAA does authorize civil actions, as well as administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	38 U.S.C. § 4323(a)(2), (b).
6. Four-year statute of limitation. USERRA states that no state statute of limitations shall apply, but otherwise provides no statute of limitations. Under 28 U.S.C. § 1658, statutes like USERRA enacted after December 1, 1990, have a 4-year statute of limitations unless otherwise provided by law. As noted in row 4 above, USERRA does not entitle legislative branch employees to either file an administrative complaint or commence a civil action. Under the CAA, proceedings must be commenced within 180 days after the alleged violation.	38 U.S.C. § 4323(c)(6).

Damages:

7. Liquidated damages. Under USERRA, 38 U.S.C. § 4323(c)(1)(A)(iii) grants the district courts jurisdiction to require a private-sector employer to pay not only compensatory damages, but also an equal amount of liquidated damages. This provision does not, by its own terms, extend to the legislative branch. Under the CAA, § 206(b) provides that the remedy for a violation of § 206(a) of the CAA shall include such remedy as would be appropriate if awarded under 38 U.S.C. § 4323(c)(1). However, the CAA does not state specifically whether the liquidated damages authorized by subparagraph (A)(iii) of § 4323(c)(1) are included among the remedies incorporated by § 206(a). By contrast, in the two other instances where a law made generally applicable by the CAA provides for liquidated damages, the CAA states specifically that the liquidated damages are incorporated. *See* § 201(b)(2)(B) of the CAA (authorizing the award of ''such liquidated damages as would be appropriate if awarded under section 7(b) of [the ADEA]''); § 203(b) of the CAA (authorizing the award of ''such remedy, including liquidated damages, as would be appropriate if awarded under section 16(b) of the [FLSA]'').	38 U.S.C. § 4323(c)(1)(A)(iii).

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (''OSHAct'')

A. SUBSTANTIVE RIGHTS AND PROTECTIONS

1. Employers may not retaliate against employees of other employers. § 11(c) of the OSHAct forbids retaliation against ''any employee'' for exercising rights under the OSHAct, and Labor Department regulations state that ''because section 11(c) speaks in terms of any employee, it is also clear that the employee need not be an employee of the discriminator.'' 29 C.F.R. § 1977.5(b). Under the CAA, an employing office may be charged with retaliation under § 207 only by a ''covered employee,'' defined as an employee of the nine legislative-branch employers listed in § 101(3).	Sec. 11(c); *29 U.S.C. § 660(c).*
2. Unions and other ''persons'' not acting as employers may not retaliate. § 11(c) of the OSHAct forbids retaliation against an employee by any ''person,'' and § 3(4) defines ''person'' broadly to include ''one or more individuals'' or ''any organized group of persons.'' Regulations of the Labor Secretary explain: ''A person may be chargeable with discriminatory action against an employee of another person. § 11(c) would extend to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee.'' 29 C.F.R. § 1977.5(b). Under the CAA, § 207 forbids retaliation only by an employing office.	Secs. 3(4), 11(c); *29 U.S.C. §§ 652(4), 660(c).*

B. ENFORCEMENT

Agency Enforcement Authorities:

3. Authority to conduct *ad hoc* inspections without a formal request by an employing office or covered employee. § 8(a) of the OSHAct authorizes the Labor Secretary to conduct inspections in the private sector at any reasonable times. Under the CAA, § 215(c)(1), (e)(1) references § 8(a) of the OSHAct, but only for the purpose of authorizing the General Counsel to exercise the Secretary's authority in making inspections. However, § 215(c)(1), (e) only provides express authority to inspect ''[u]pon written request of any employing office or covered employee'' or in ''periodic inspections'' that are ''[o]n a regular basis, and at least once each Congress.''.	Sec. 8(a); *29 U.S.C. § 657(a).*
4. Grant of investigatory powers. The OSHAct empowers the Labor Secretary, in conducting an inspection or investigation, to compel the production of evidence under oath. The CAA neither references § 8(b) nor sets forth similar provisions granting compulsory process in the context of inspections and investigations. (§ 405(f) of the CAA grants subpoena powers to hearing officers, but these CAA authorities do not grant subpoena powers for use in agency inspection or investigation.).	Sec. 8(b); *29 U.S.C. § 657(b).*
5. Authority to require recordkeeping and reporting of general work-related injuries and illnesses. The OSHAct requires employers to make and preserve such records as the Labor Secretary, in consultation with the HHS Secretary, may prescribe by regulation as necessary or appropriate for enforcement, and to file such reports as the Secretary may prescribe by regulation. Employers must also maintain records and make periodic reports on work-related deaths, injuries, and illnesses, and maintain records of employee exposure to toxic materials. The CAA does not reference these provisions, and the Board, in adopting implementing regulations, determined that these requirements were not made applicable by the CAA. 143 Cong. Rec. S64 (Jan. 7, 1997). However, the Board did incorporate into its regulations several employee-notification requirements with respect to particular hazards that are contained in specific Labor Department standards.	Secs. 8(c), 24(e); *29 U.S.C. §§ 657(c), 673(e).*
6. Agency enforcement of the prohibition against retaliation. Under the OSHAct, an employee who has suffered retaliation may file a complaint with the Labor Secretary, who shall conduct an investigation and, if there was a violation, shall sue in district court. The CAA does not reference these provisions and no provision of the CAA sets forth similar provisions authorizing an agency to investigate a complaint of retaliation or to bring an enforcement proceeding.	Sec. 11(c)(2); *29 U.S.C. § 660(c)(2).*

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (''OSHAct'')—Continued

Administrative and Judicial Procedures and Remedies:	
7. Individual liability for retaliation. Because § 11(c) of the OSHAct forbids retaliation by ''any person,'' an employee's officer responsible for retaliation may be sued and, in appropriate circumstances, be held liable. *See Donovan* v. *Diplomat Envelope Corp.*, 587 F. Supp. 1417, 1425 (E.D.N.Y. 1984) (''We cannot rule out the possibility that damages might under some circumstances be appropriately imposed upon an employer's officer responsible for a discriminatory discharge.'') The CAA does not reference § 11(c) of the OSHAct, and individuals may be neither sued nor held liable under the CAA because § 207 forbids retaliation only by an employing office, only an employing office may be named as respondent or defendant under §§ 401–408, and all awards and settlements must generally be paid out of an account of the Office of Compliance under § 415(a).	Sec. 11(c); *29 U.S.C. § 660(c).*
8. Employer's burden to contest a citation within 15 days. The OSHAct provides that the employer has the burden of contesting a citation within 15 days, or else the citation becomes final and unreviewable. The CAA does not reference these provisions, and § 215(c)(3) of the CAA places the burden of initiating proceedings on the General Counsel.	Sec. 10(a); *29 U.S.C. § 659(a).*
9. Employees' right to challenge the abatement period. The OSHAct gives employees or their representatives the right to challenge, in an adjudicatory hearing, the period of time fixed in a citation for the abatement of a violation. The CAA neither references these provisions nor sets forth similar provisions establishing a process by which employees or their representatives may challenge the abatement period.	Sec. 10(c); *29 U.S.C. § 659(c).*
10. Employees' right to participate as parties in hearings on citations. The OSHAct gives affected employees or their representatives the right to participate as parties in hearings on a citation. The CAA neither references these provisions nor sets forth similar provisions allowing employees or their representatives to participate as parties.	Sec. 10(c); *29 U.S.C. § 659(c).*
11. Employees' right to take appeal from administrative orders on citations. The OSHAct gives ''any person adversely affected or aggrieved'' by an order on a citation the right to appeal to the U.S. Courts of Appeals. The CAA does not reference these provisions, and § 215 (c)(3), (5) sets forth authority for the employing office and the General Counsel to bring or participate in administrative or judicial appeals on a citation only.	Sec. 11(a); *29 U.S.C. § 660(a).*
12. Enforceability of subpoenas for information or documents within the jurisdiction of the House or Senate. The OSHAct grants subpoena power to the Occupational Safety and Health Review Commission, which holds adjudicatory hearings under the OSHAct. The CAA also authorizes administrative adjudications, but such authorization is subject to § 413 of the CAA, by which the House and Senate decline to waive certain powers relating to records and information, as discussed in connection with Title VII at page 3, row 13, above.	Sec. 12(h)–(i); *29 U.S.C. § 661(h)–(i).*
13. Court jurisdiction, upon petition of the agency, to restrain imminent danger. § 13(a) of the OSHAct grants jurisdiction to the district courts, upon petition of the Labor Secretary, to restrain an imminent danger. Under the CAA, § 215(b) references § 13(a) of the OSHAct to the extent of providing that ''the remedy for a violation'' shall be ''an order to correct the violation, including such order as would be appropriate if issued under section 13(a).'' However, the only process set forth in the CAA for the granting of remedies is the citation procedure under §§ 215(c)(2)–(3) and 405, culminating when the hearing officer issues a written decision that shall ''order such remedies as are appropriate pursuant to title II [of the CAA].'' Thus, the CAA does not expressly grant jurisdiction to courts to issue restraining orders authorized under § 215(b) and does not expressly authorize the General Counsel to petition for such restraining orders. However, § 4.12 of the Procedural Rules of the Office of Compliance states that, if the General Counsel's designee concludes that an imminent danger exists, ''he or she shall inform the affected employees and the employing offices . . . that he or she is recommending the filing of a petition to restrain such conditions or practices . . . in accordance with section 13(a) of the OSHAct, as applied by section 215(b) of the CAA.	Sec. 13(a) *29 U.S.C. § 662.*
14. Employees' right to sue for mandamus compelling the Labor Secretary to seek a restraining order against an imminent danger. The OSHAct gives employees at risk or their representatives the right to sue for a writ of mandamus to compel the Secretary to seek a restraining order and for further appropriate relief. The CAA neither references these provisions nor sets forth similar provisions authorizing employees or their representatives to seek to compel an agency to act.	Sec. 13(d); *29 U.S.C. § 662(d)*
Civil and Criminal Penalties:	
15. Civil penalties for violation. Civil penalties may be assessed for violations of the OSHAct, graded in terms of seriousness and willfulness of the violation. The CAA does not reference these provisions, and § 225(c) of the CAA specifically precludes the awarding of civil penalties.	Sec. 17(a)–(d), (i)–(l); *29 U.S.C. § 666(a)–(d), (i)–(l).*
16. Criminal penalties for willful violation causing death. Under the OSHAct, fines and imprisonment may be imposed for a willful violation causing death. The CAA neither references these provisions nor sets forth similar provisions imposing criminal penalties.	Sec. 17(e); *29 U.S.C. § 666(e).*
17. Criminal penalties for giving unauthorized advance notice of inspection. Under the OSHAct, fines and imprisonment may be imposed for giving unauthorized advance notice of an inspection. The CAA does not reference these provisions or otherwise provide for criminal penalties. § 4.06 of the Procedural Rules of the Office of Compliance forbids giving advance notice of inspections except as authorized by the General Counsel in specified circumstances, but applicable penalties are not specified.	Sec. 17(f); *29 U.S.C. § 666(f).*
18. Criminal penalties for knowingly making false statements. Under the OSHAct, fines and imprisonment may be imposed for knowingly making false statements in any application, record, or report under the OSHAct. The CAA neither references these provisions nor sets forth similar provisions imposing criminal penalties.	Sec. 17(g); *29 U.S.C. § 666(g).*
C. OTHER AGENCY AUTHORITIES	
19. Requirement that citations be posted. § 9(b) of the OSHAct requires that each citation be posted at or near the place of violation, as prescribed by ''regulations issued by the Secretary.'' The Secretary may enforce this requirement under §§ 9 and 17 of the OSHAct, which include authority to issue citations and to assess or seek civil and criminal penalties for a violation of any ''regulations prescribed pursuant to'' the OSHAct. Under the CAA, § 215(c)(2) references § 9 of the OSHAct, but only to the extent of granting the General Counsel the authorities of the Secretary ''to issue'' a citation or notice, and the CAA does not expressly state whether the employing office has a duty to post the citation. § 4.13 of the Procedural Rules of the Office of Compliance directs employing offices to post citations, but the Procedural Rules are issued under § 303 of the CAA, which authorizes the adoption of rules governing ''the procedures of the Office [of Compliance].'' Furthermore, as to whether a requirement to post citations is enforceable under the CAA, the only enforcement mechanism stated in § 215 is set forth in subsection (c)(2), which authorizes the General Counsel to issue citations ''to any employing office responsible for correcting a violation of subsection (a)''; but subsection (a) does not expressly reference either § 9(b) of the OSHAct or the Office's Procedural Rules.	Sec. 9(b); *29 U.S.C. § 658(b).*

APPENDIX II—ENFORCEMENT REGIMES OF CERTAIN LAWS MADE APPLICABLE BY THE CAA

The tables in this Appendix show the elements of private-sector enforcement regimes for nine of the laws made applicable by the CAA: Title VII, ADEA, EPA, ADA title I, FMLA, FLSA, EPPA, WARN Act, and USERRA. (Because ADA title I incorporates powers and procedures from Title VII, these two laws are combined in a single table.) These nine are the laws for which the CAA does not grant investigatory or prosecutory authority to the Office of Compliance. ADA titles II–II, the OSHAct, and Chapter 71, for which the CAA does grant such enforcement authority to the Office of Compliance, are not included in these tables.

In each of the tables, agency enforcement authority is described in the following six categories:

1. Initiation of agency investigation, whether by receipt of a charge by an affected individual or by agency initiative.

2. Investigatory powers of the agency, including authority to conduct on-site investigations and power to issue and enforce subpoenas.

3. Authority to seek compliance by informal conference, conciliation, and persuasion.

4. Prosecutory authority, including power of an agency to commence civil actions, the remedies available, and the authority to seek fines or civil penalties.

5. Authority of the agency to issue advisory opinions.

6. Recordkeeping and reporting requirements.

TITLE VII AND AMERICANS WITH DISABILITIES ACT (TITLE I)

The ADA (title I) incorporates by reference the enforcement powers, remedies, and procedures of Title VII,[1] and is therefore summarized here in the same chart as Title VII.

1. Initiation of investigation. *Individual charges.* When an individual claimant files a charge, Title VII and the ADA require the EEOC to serve notice of the charge on the respondent and to investigate.[2] *Commissioner charges.* Title VII and the ADA also require the EEOC to serve notice and to investigate any charge filed by a Member of the EEOC.[3] Commissioner charges are ordinarily based on leads developed by EEOC field offices.

2. Investigatory powers.

On-site investigation. In connection with the investigation of an individual charge or a Commissioner charge, Title VII and the ADA authorize the EEOC and its representatives to ''have access to, for purposes of examination, and the right to copy any evidence.''[4] According to the EEOC Compliance Manual, this authority includes interviewing witnesses.[5]

Subpoenas. *Issuance.* Title VII and the ADA grant the EEOC the power to issue subpoenas, relying on authorities under the NLRA,[6] and EEOC regulations specify that subpoenas may be issued by any Commission member or any District Directors and certain other agency Directors and ''any representatives designated by the Commission.''[7] *Petitions for revocation or modification.* Under EEOC regulations, Title VII and ADA subpoenas may be challenged by petition to the Director who issued the subpoena, who shall either grant the petition in its entirety or submit a proposed determination to the Commission for final determination.[8] *Enforcement.* Title VII and the ADA also empower the EEOC to seek district court enforcement of such subpoenas under authorities of the NLRA,[9] and EEOC regulations specify that the General Counsel or his or her designee may institute such proceedings.[10]

3. ''Reasonable cause'' determination; Conciliation. Title VII and the ADA provide that, if the EEOC determines after investigation that there is ''reasonable cause to believe that the charge is true,'' then the

[1] Footnotes at end of article.

EEOC must ''endeavor to eliminate any such alleged unlawful employment practice'' by informal ''conference, conciliation, and persuasion''; otherwise, the EEOC must dismiss the charge and send notice to the parties, including a right-to-sue letter to the person aggrieved.[11]

4. Prosecutory authority.

Civil enforcement actions. *Generally*. The EEOC has the authority to prosecute alleged private-sector Title VII and ADA violations in district court, after the Commission has found ''reasonable cause'' and has been unable to resolve the case through ''conference, conciliation, and persuasion.''[12] The EEOC General Counsel brings such civil actions on behalf of the EEOC. *Remedies*. The agency may request Title VII remedies (injunction, with or without back pay);[13] compensatory or punitive damages may be granted only in an ''action brought by a complaining party.''[14] Title VII and the ADA also authorize the EEOC to ask the district courts for temporary or preliminary relief.[15]

Relation with private right of action. If the EEOC sues, Title VII specifically authorizes the person aggrieved to intervene.[16] If the EEOC dismisses the charge, or fails to either enter into a conciliation agreement including the person aggrieved or commence a civil action within 180 days after the charge is filed, the EEOC must issue a right-to-sue letter to the person aggrieved, who may then sue; and the EEOC may then intervene if the case is of ''general public importance.''[17]

Fine for notice-posting violation. Title VII (though not the ADA) imposes a fine of not more than $100 for a willful violation of notice-posting requirements.[18] The EEOC Compliance Manual states that the EEOC district or area office can levy such a fine, and, if a respondent is unwilling to pay, ''The Regional Attorney should be notified.''[19]

5. Advisory opinions. *Title VII*. Title VII establishes a defense for good-faith reliance on ''any written interpretation or opinion of the Commission.''[20] EEOC regulations specify that the following may be relied upon as such: (i) an ''opinion letter'' of the Legal Counsel or the General Counsel approved by the Commission, (ii) a Federal Register publication designated as an ''interpretation or opinion,'' or (iii) an ''interpretation or opinion'' included in a Commission determination of no reasonable cause.[21] *ADA*. Unlike the other discrimination laws, the ADA does not establish a defense for good-faith reliance on advisory opinions, and EEOC regulations do not provide for their issuance. Nevertheless, the EEOC appended ''interpretive guidance'' to its substantive regulations, stating that ''the Commission will be guided by it when resolving charges of employment discrimination.''[22]

6. Recordkeeping/reporting. Title VII and the ADA require employers to make and preserve records, and to make reports, as the EEOC shall prescribe ''by regulation or order, after public hearing.''[23] *Recordkeeping*. EEOC regulations require employers to preserve for one year ''[a]ny personnel or employment record,''[24] and also reserve the right to impose specific recordkeeping requirements on individual employers or group of employers.[25] The EEOC's Title VII ''Uniform Guidelines on Employee Selection Procedures'' require that records be maintained by users of such procedures.[26] *Reporting*. EEOC regulations require employers having 100 or more employees to file an annual Title VII ''Employer Information Report EEO–1,''[27] and also reserve the right to impose special or supplementary reporting requirements on individual employers or groups of employers under either Title VII or the ADA.[28] *Enforcement*. The EEOC may ask district courts to order compliance with Title VII and the ADA recordkeeping and reporting requirements.[29]

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

The ADEA is a procedural hybrid, modeling some of its procedures on Title VII, and incorporating other procedures from the FLSA. The ADEA was originally implemented and enforced by the Labor Department; the Secretary's functions were transferred to the EEOC by the Reorganization Plan in 1978,[30] and ADEA procedures were conformed in some respects to those of Title VII by the Civil Rights Act of 1991.

1. Initiation of investigation. *Individual charges*. Upon receiving any ADEA complaint, the EEOC must notify the respondent.[31] Unlike Title VII and the ADA, the ADEA does not specifically require the EEOC to investigate complaints, but the EEOC applies a uniform policy for all discrimination laws, conducting an investigation appropriate to each particular charge.[32] *Directed investigations*. Unlike Commissioner charges under Title VII or the ADA, directed investigations under the ADEA may be commenced without action by an EEOC Member or notice to the respondent.

2. Investigatory powers. The ADEA grants the EEOC broad investigatory power by reference to the FLSA.[33] With respect to subpoenas, the FLSA relies, in turn, on authorities of the FTC Act.[34]

On-site investigation. The EEOC and its representatives are authorized to investigate and gather data, enter and inspect an employer's premises and records, and question employees to ''determine whether any person has violated'' the ADEA or which may ''aid in . . . enforcement.''[35]

Subpoenas. *Issuance*. The ADEA, relying on authorities of the FTC Act, grants to the EEOC the power to issue subpoenas.[36] EEOC regulations, citing the agency's power to delegate under the ADEA, delegate subpoena power to agency Directors and the General Counsel or their designees.[37] Unlike under Title VII and the ADA, there is no procedure for asking the EEOC to reconsider or review a subpoena under the ADEA.[38] *Enforcement*. The ADEA authorizes the EEOC to invoke the aid of Federal courts to enforce subpoenas under authorities of the FTC Act,[39] and the EEOC Compliance Manual specifies that the Office of General Counsel and the Regional Attorneys may institute such proceedings.[40]

3. ''Reasonable cause'' determination; Conciliation. The ADEA provides that, upon receiving a charge, the EEOC must ''seek to eliminate any alleged unlawful practice'' by informal ''conference, conciliation, and persuasion.''[41] The ADEA, unlike Title VII and the ADA, does not require the Commission to make a ''reasonable cause'' determination as a prerequisite to conciliation, but EEOC regulations state that informal conciliation will be undertaken when the Commission has a ''reasonable basis to conclude'' that a violation has occurred or will occur.[42]

4. Prosecutory authority.

Civil actions. *Generally*. The EEOC has authority to prosecute alleged ADEA violations in district court if the EEOC is unable to ''effect voluntary compliance'' through informal conciliation.[43] The EEOC General Counsel brings such civil actions on behalf of the EEOC. *Remedies*. The agency may request amounts owing under the ADEA, including liquidated damages in case of willful violations, and an order restraining violations, including an order to pay compensation due.[44]

Relation with private right of action. An individual may bring a civil action 60 days after a charge is filed[45] and must sue within 90 days after receiving notice from the EEOC that the charge has been dismissed or proceedings otherwise terminated.[46] Thus, in contrast to Title VII and the ADA, the ADEA does not require that the EEOC issue a right to sue letter before an individual may sue.[47] As is the case under the FLSA, the EEOC's commencement of a suit on the individual's behalf terminates the individual's unexercised right to sue,[48] but most cases hold that an EEOC suit filed after an individual has commenced a suit does not terminate the individual's suit.[49]

5. Advisory opinions. The ADEA establishes a defense for good-faith reliance on ''any written administrative regulation, order, ruling, approval, or interpretation'' of the EEOC.[50] EEOC regulations specify that the following may be relied upon as such: (i) an ''opinion letter'' of the Legal Counsel or the General Counsel approved by the Commission, or (ii) a Federal Register publication designated as an ''interpretation or opinion'';[51] and the EEOC has codified a body of its ADEA interpretations in the Code of Federal Regulations.[52]

6. Recordkeeping/reporting. The ADEA empowers the EEOC to require the keeping of necessary and appropriate records in accordance with the powers in section 11 of the FLSA. *Recordkeeping*. EEOC regulations specify the ''payroll'' records that employers must maintain and preserve for at least 3 years and ''personnel or employment'' records that employers must maintain and preserve for at least 1 year.[53] *Reporting*. Although the ADEA does not specifically require employees to submit reports, it references FLSA provisions requiring every employer ''to make such reports'' from required records as the Administrator shall prescribe.[54] EEOC regulations require each employer to make ''such extension, recomputation, or transcription'' of records and to submit ''such reports concerning actions taken and limitations and classifications of individuals set forth in records'' as the EEOC or its representative may request in writing.[55]

EQUAL PAY ACT

The enforcement regime for the Equal Pay Act (''EPA'') is a hybrid between the FLSA model and the Title VII model. The EPA legislation in 1963 added a new section 6(d) to the FLSA establishing substantive rights and responsibilities,[56] and relied on the existing FLSA provisions establishing enforcement powers, remedies, and procedures. The EPA was, at first, implemented and enforced by the Labor Department with the rest of the FLSA; the Secretary's EPA functions were transferred to the EEOC by the Reorganization Plan in 1978,[57] and the EEOC has conformed its EPA enforcement processes with those for Title VII in some respects.

1. Initiation of investigation. *Individual complaints*. Unlike the other discrimination laws, the FLSA, as amended by the EPA, does not require the EEOC to notify the respondent or to investigate complaints. However, the EEOC applies a uniform policy for all discrimination laws, conducting an investigation appropriate to each particular charge.[58] *Directed investigations*. Unlike Commissioner charges under Title VII and the ADA, directed investigations under the ADEA may be commenced without action by an EEOC Member or notice to the respondent.

2. Investigatory powers. The FLSA, of which the EPA is a part, grants the EEOC broad investigatory authority.[59] With respect to subpoenas, the FLSA relies, in turn, on authorities of the FTC Act.[60]

On-site investigation. The FLSA, as amended by the EPA, authorizes the EEOC and its representatives to investigate and gather data, enter and inspect an employer's premises and records, and question employees to ''determine whether any person has violated'' the EPA or which may ''aid in . . . enforcement'' of the EPA.[61]

Subpoenas. Under the FLSA, as amended by the EPA, the EEOC can issue and enforce subpoenas, relying on the authorities of the FTC Act.[62] *Issuance.* The power under the FLSA to issue subpoenas may not be delegated,[63] and EEOC regulations provide that subpoenas may be issued by any Member of the Commission.[64] *Enforcement.* The FLSA, as amended by the EPA, authorizes the EEOC to invoke the aid of Federal courts to enforce subpoenas,[65] and the EEOC Compliance Manual specifies that the Office of General Counsel and the Regional Attorneys may institute such proceedings.[66]

3. ''Reasonable Cause'' Determination; Conciliation. The FLSA, as amended by the EPA, does not require the EEOC to issue a written determination on each case or to undertake conciliation efforts. However, it is EEOC's uniform policy to issue ''reasonable cause'' letters for all laws, once a case has been found to meet the reasonable cause standard,[67] and EEOC office directors are granted discretion to invite a respondent to engage in conciliation negotiations when a ''reasonable cause'' letter is issued.[68]

4. Prosecutory authority.

Civil proceedings. *Generally.* The EEOC has the authority to prosecute alleged EPA violations in district court.[69] Unlike other discrimination laws, the FLSA, as amended by the EPA, authorizes the EEOC to sue without first having undertaken conciliation efforts. The EEOC General Counsel brings such civil actions on behalf of the EEOC. *Remedies.* The agency may request back wages, plus an equal amount in liquidated damages on behalf of aggrieved persons, and may also seek an injunction in federal district court restraining violations, including an order to pay compensation due, plus interest.[70]

Relation with private right of action. Unlike the other discrimination laws, the FLSA, as amended by the EPA, does not require an individual to first file a charge with the EEOC and await conciliation efforts before bringing a civil action.[71] If the EEOC first commences suit on the individual's behalf, the individual's right to bring suit terminates.[72]

5. Advisory opinions. The Portal-to-Portal Act (''PPA'') establishes a defense for good-faith reliance on the ''written administrative regulation, order, ruling, approval, or interpretation'' of the Administrator.[73] The EEOC has published procedures for requesting opinion letters under the EPA, and has specified that the following may be relied upon as such: (i) an ''opinion letter'' of the Legal Counsel or the General Counsel approved by the Commission, or (ii) a Federal Register publication designated as an ''interpretation or opinion.''[74]

6. Recordkeeping/reporting. Under the FLSA, as amended by the EPA, every employer must make and preserve such records, and ''make such reports therefrom,'' as the EEOC shall prescribe ''by regulation or order.''[75] *Recordkeeping.* The EEOC regulations adopt by reference the Labor Department's FLSA regulations specifying the ''payroll'' and other records that employers must maintain and preserve for at least 3 years and the ''employment and earnings'' records that employers must maintain and preserve for at least 2 years.[76] In addition, EEOC regulations require employers to preserve for 2 years any records made in the ordinary course of business that describe or explain any differential in wages paid to members of the opposite sex in the same establishment.[77] *Reporting.* The Labor Department's regulations, which are adopted by reference by EEOC's regulations, also require each employer to make ''such extension, recomputation, or transcription'' of required records, and to submit ''such reports,'' as may be ''require[d] in writing.''[78]

FAMILY AND MEDICAL LEAVE ACT OF 1993

The FMLA incorporates much of the investigative authority set forth in the FLSA[79] and establishes prosecutorial powers modeled on those in the FLSA.[80] Furthermore, the FMLA specifically requires the Secretary to ''receive, investigate, and attempt to resolve'' complaints of violations ''in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of [FLSA] violations.''[81]

1. Initiation of investigation. *Individual complaints.* The FMLA requires that complaints be received and investigated in the same manner as FLSA complaints, even though the FLSA itself does not require the receipt and investigation of individual complaints. In practice, as the Wage and Hour Division receives and accepts complaints, which it analyzes and investigates on a worst-first priority basis,[82] the Division is required to do the same for FMLA complaints. *Directed investigations.* The FMLA references the investigatory power as the FLSA,[83] under which authority the Division conducts directed investigations.[84]

2. Investigatory powers.

On-site investigation. The FMLA references the investigatory power of the FLSA,[85] which affords authority to the Administrator and his representatives to investigate and gather data, enter and inspect an employer's premises and records, and question employees to ''determine whether any person has violated'' the FLSA or which may ''aid in . . . enforcement'' of the FLSA.[86]

Subpoenas. The FMLA incorporates the subpoena power set forth in the FLSA, under which the Secretary and the Administrator can issue and enforce subpoenas, relying on the authorities of the FTC Act.[87] *Issuance.* The power of the Secretary and the Administrator to issue subpoenas under the FLSA may not be delegated.[88] *Enforcement.* The FLSA authorizes the Secretary and the Administrator to invoke the aid of Federal courts to enforce subpoenas,[89] and that such civil litigation on behalf of the Department is handled by the Solicitor of Labor and the Regional Solicitors.

3. Conciliation. The FMLA requires the Secretary to ''attempt to resolve'' FMLA complaints in the same way as FLSA complaints, even though the FLSA does not require conciliation. In practice, however, where the FLSA violation appears to be minor and to involve only a single individual, the investigator will ask the employee for permission to use his or her name and will then telephone the employer to ask for a response to the charge, and, if there appears to be a violation, will close the matter upon the payment of back wages.[90]

4. Prosecutory authority.

Civil proceedings. *Generally.* The Secretary has the authority to prosecute alleged FMLA violations in district court.[91] The FMLA specifies that the Solicitor of Labor may represent the Secretary in any such litigation.[92] *Remedies.* The agency may seek: (i) damages, including liquidated damages, owing to an employee, and (ii) an order restraining violations, including an order to pay compensation due, or other equitable relief.[93]

Relation with private right of action. Unlike the discrimination laws, but like the FLSA, the FMLA does not require an individual to first file a charge with the agency and await conciliation efforts before bringing a civil action.[94] However, if the Labor Department first commences suit on the individual's behalf, the individual's right to bring suit terminates.[95]

Administrative assessment of civil penalties. Civil penalties for violation of notice-posting requirements[96] may be assessed, according to the Secretary's regulations, by any Labor Department representative, subject to appeal to the Wage and Hour Regional Administrator, and subject to judicial collection proceeding commenced by the Solicitor of Labor.[97]

5. Advisory opinions. Although the FMLA establishes a defense against liquidated damages for good-faith violations where the employer had reasonable cause to believe the conduct was not a violation,[98] the Act does not refer specifically to reliance on interpretations or opinions of the Secretary or the Administrator, and the Secretary's regulations contain neither FMLA interpretations or opinions designated as such nor procedures for requesting interpretations or opinions.

6. Recordkeeping/reporting. *Recordkeeping.* The FMLA requires employers to make, keep, and preserve records in accordance with regulations of the Secretary,[99] and those regulations specify the records regarding payroll, benefits, and FMLA leave and disputes that employers must maintain and preserve for 3 years.[100] *Reporting.* The FMLA references the recordkeeping authorities under the FLSA, which include the requirement that employers shall make ''reports therefrom [from required records]'' as the Administrator shall ''prescribe by regulation or order.''[101] The FMLA further provides that the Secretary may not require an employer to submit to the Secretary any books or records more than once in 12 months, unless the Secretary has reasonable cause to believe there may be a violation or is investigating an employee charge.[102] The Secretary's FMLA regulations indicate that employers must submit records ''specifically requested by a Departmental official'' and must prepare ''extensions or transcriptions'' of information in the records ''upon request.''[103]

FAIR LABOR STANDARDS ACT OF 1938

1. Initiation of investigation. *Individual complaints.* Unlike Title VII, the FLSA does not specifically require the investigation of individual complaints, but the Wage and Hour Division receives and accepts complaints, which it analyzes and investigates on a worst-first priority basis.[104] *Directed investigations.* The FLSA has no counterpart to the Commissioner charges under Title VII. Instead, the Division can conduct directed investigations without formal approval by the head of the agency, developing leads from a variety of sources.[105] The Division also conducts periodic compliance surveys, reviewing wages paid to a statistical sampling of employees at a random sample of employers, and may initiate a directed investigation when a violation is evident.[106]

2. Investigatory powers.

On-site investigation. The FLSA authorizes the Administrator and his representatives to investigate and gather data, enter and inspect an employer's premises and records, and question employees to ''determine whether any person has violated'' the

FLSA or which may ''aid in . . . enforcement'' of the FLSA.[107]

Subpoenas. Under the FLSA, the Secretary and the Administrator can issue and enforce subpoenas, relying on the authorities of the FTC Act.[108] *Issuance.* The power of the Secretary and the Administrator to issue subpoenas under the FLSA may not be delegated.[109] *Enforcement.* The FLSA authorizes the Secretary and the Administrator to invoke the aid of Federal courts to enforce subpoenas,[110] and such civil litigation on behalf of the Department is handled by the Solicitor of Labor and the Regional Solicitors.

3. Conciliation. Unlike Title VII, the FLSA does not require ''reasonable cause'' determinations or conciliation. In practice, where the violation appears to be minor and to involve only a single individual, the investigator will ask the employee for permission to use of his or her name and will then telephone the employer to ask for a response to the charge, and, if there appears to be a violation, will close the matter upon the payment of back wages.[111]

4. Prosecutory authority.

Civil proceedings. *Generally.* The Secretary has the authority to prosecute alleged FLSA violations in district court.[112] The Solicitor of Labor and Regional Solicitors are responsible for bringing litigation on behalf of the Administrator. *Remedies.* The agency may seek: *(i)* unpaid minimum wages or overtime compensation and liquidated damages owing to an employee, *(ii)* civil penalties, and *(iii)* an order restraining violations, including an order to pay compensation due.[113]

Relation with private right of action. Unlike the discrimination laws, the FLSA does not require an individual to first file a charge with the agency and await conciliation efforts before bringing a civil action.[114] However, if the Labor Department first commences suit on the individual's behalf, the individual's right to bring suit terminates.[115]

Administrative assessment of civil penalties; criminal proceedings. Civil penalties for repeated or willful violations or for child labor violations are assessed initially by the Secretary, and, if the respondent takes exception, are decided through adjudication before an ALJ, subject to appeal to the Labor Secretary and judicial review in federal district court.[116] The FLSA also imposes fines and imprisonment for willful violations.[117]

5. Advisory opinions. The Portal-to-Portal Act establishes a defense for good-faith reliance on the ''written administrative regulation, order, ruling, approval, or interpretation'' of the Administrator.[118] The Administrator has issued interpretative bulletins and advisory opinions ''to indicate the construction of the law which will guide the Administrator in the performance of his administrative duties.'' [119]

6. Recordkeeping/reporting. The FLSA requires every employer to make and preserve such records, and ''to make such reports therefrom,'' as the Wage and Hour Administrator shall prescribe ''by regulation or order.'' [120] *Recordkeeping.* Labor Department regulations specify the ''payroll'' and other records that employers must maintain and preserve for at least 3 years and the ''employment and earnings'' records that employers must maintain and preserve for at least 2 years.[121] *Reporting.* These regulations also require each employer to make ''such extension, recomputation, or transcription'' of required records, and to submit ''such reports,'' as the Administrator may ''request in writing.'' [122]

EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

The enforcement regime under the EPPA is similar to that under the FLSA in some respects, and in other respects is *sui generis.*

1. Initiation of investigation. *Individual complaints.* Like the FLSA and unlike Title VII, the EPPA does not specifically require the investigation of individual complaints. However, the Labor Secretary's regulations provide that the Wage and Hour Division will receive reports of violations from any person.[123] *Directed investigations.* Like the FLSA and unlike Title VII, the EPPA authorizes the Labor Department to conduct directed investigations without formal approval by the head of the agency.[124]

2. Investigatory powers.

On-site investigation. The EPPA authorizes the Secretary to make ''necessary or appropriate'' investigations and inspections.[125]

Subpoenas. Under the EPPA, as under the FLSA, the Secretary can issue and enforce subpoenas, relying on the authorities of the FTC Act.[126] The EPPA authorizes the Secretary to invoke the aid of Federal courts to enforce subpoenas,[127] and civil litigation on behalf of the Department is handled by the Solicitor of Labor.[128]

3. Conciliation. Like the FLSA and unlike Title VII, the EPPA does not require ''reasonable cause'' determinations or conciliation.

4. Prosecutory authority.

Civil proceedings. *Generally.* The EPPA authorizes the Labor Secretary to prosecute in alleged EPPA violations in district court.[129] The Solicitor of Labor may represent the Secretary in such litigation.[130] *Remedies.* The agency may seek temporary or permanent restraining orders and injunctions to require compliance, including incidental relief such as reinstatement and back pay and benefits.[131]

Relation with private right of action. Unlike the discrimination laws, and like the FLSA, the EPPA does not require an individual to first file a charge with the agency and await conciliation efforts before bringing a civil action.[132] However, unlike both the discrimination laws and the FLSA, the EPPA does not state that the individual's right to bring suit to terminates upon the filing of an enforcement action by the Secretary.[133]

Administrative assessment of civil penalties. Civil penalties for violations are assessed initially by the Secretary. Applying the procedures of the Migrant and Seasonal Agricultural Worker Protection Act, the EPPA provides that, if the respondent takes exception, the validity of the assessment is decided through adjudication before an ALJ, who renders an initial decision subject to modification by the Labor Secretary, and subject to judicial review in federal district court.[134]

5. Advisory opinions. Unlike both Title VII and the FLSA, the EPPA establishes no defense for good-faith reliance on agency advisory opinions, and the Labor Secretary's EPPA regulations contain neither EPPA interpretations or opinions designated as such nor procedures for requesting interpretations or opinions. However, the regulations contain provisions that the Secretary characterized as ''interpretations regarding the effect of . . . the Act on other laws and collective bargaining agreements.''[135]

6. Recordkeeping/reporting. *Recordkeeping.* The EPPA requires the keeping of records ''necessary or appropriate for the administration'' of the EPPA.[136] Labor Department regulations specify the records regarding any polygraph use that employers and examiners must maintain and preserved for 3 years.[137] *Reporting.* The EPPA and Labor Department regulations do not impose any reporting requirements.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

The WARN Act establishes no agency investigative or enforcement authority, and is enforced solely through the private right of action.

1. Initiation of investigation. None.

2. Investigatory powers. None.

3. Conciliation. The WARN Act makes no provision for conciliation.

4. Prosecutory authority. None.

5. Advisory opinions. The WARN Act makes no provision for advisory opinions.

6. Recordkeeping/reporting. None.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994

1. Initiation of investigation. *Individual complaints.* When an employee files a complaint with the Secretary of Labor, the Secretary is required to investigate.[138] *Directed investigations.* The USERRA does not authorize investigations without an employee complaint.

2. Investigatory powers.

On-site investigation. In connection with the investigation of any complaint, USERRA authorizes the Secretary's ''duly authorized representatives'' to interview witnesses and to examine and copy any relevant documents.[139]

Subpoenas. *Issuance.* The Secretary can issue subpoenas under the USERRA.[140] *Enforcement.* The USERRA authorizes the Attorney General, upon the request of the Secretary, to invoke the aid of Federal courts to enforce subpoenas.[141]

3. Finding that violation occurred; conciliation. If the Secretary determines that the action alleged in a complaint occurred, the USERRA requires the Secretary to ''attempt to resolve the complaint by making reasonable efforts to ensure'' compliance.[142] If the Secretary is unable to resolve the complaint in this manner, the Secretary shall so notify the complaining employee.[143]

4. Prosecutory authority.

Civil proceedings. *Generally.* A complaining employee who receives notification that the Secretary could not resolve the complaint may ask the Secretary to refer the matter to the Attorney General, who, if reasonably satisfied that the complaint is meritorious, may prosecute the alleged USERRA violation in district court on behalf of the employee.[144] *Remedies.* The Attorney General may seek the same remedies as a private individual under USERRA: injunctions and orders requiring compliance, compensation for lost wages and benefits, and, for willful violations, liquidated damages.[145]

Relation with private right of action. Unlike the discrimination laws, the USERRA does not require an employee to first file an administrative complaint and await conciliation efforts before bringing a civil action.[146] If the employee does choose to file an administrative complaint, the employee may sue upon notification that the Secretary could not resolve the complaint informally, and may sue as well if the employee asks the Attorney General to take the case but the Attorney General declines.[147] If the employee asks the Attorney General to pursue the case and the Attorney General does so, the individual may not also pursue a private action.

5. Advisory opinions. The USERRA establishes no defense for good-faith reliance on agency advisory opinions, and the Labor Secretary has not promulgated in the Federal Register any interpretations or opinions designated as such nor procedures for requesting interpretations or opinions.

6. Recordkeeping/reporting. The USERRA imposes no recordkeeping or reporting requirements.

ENDNOTES

Notes regarding table 1—title VII & ADA (title I)

[1] §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of §§705–707, 709, and 710 of Title VII, 42 U.S.C. §§2000e–4, 2000e–5, 2000e–6, 2000e–8, and 2000e–9).

[2] §706(b) of Title VII, 42 U.S.C. §2000e–5(b). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[3] §706(b) of Title VII, 42 U.S.C. §2000e–5(b). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[4] §709(a) of Title VII, 42 U.S.C. §2000e–8(a). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[5] 1 EEOC Compliance Manual, Vol. 1—Investigative Procedures §25.1 (BNA) 25:0001 (6/87).

[6] §710 of Title VII, 42 U.S.C. §2000e–9 (applying authorities under §11 of the NLRA, including paragraph (1) thereof, 29 U.S.C. §161(1)). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[7] 29 C.F.R. §1601.16(a).

[8] 29 C.F.R. §1601.16(b).

[9] §710 of Title VII, 42 U.S.C. §2000e–9 (applying §11 of the NLRA, including paragraph (2) thereof, 29 U.S.C. §161(2)). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[10] 29 C.F.R. §1601.16(d).

[11] §706(b) of Title VII, 42 U.S.C. §2000e–5(b). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[12] §706(f)(1) of Title VII, 42 U.S.C. §2000e–5(f)(1). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[13] §706(g)(1) of Title VII, 42 U.S.C. §2000e–5(g)(1). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[14] 42 U.S.C. §1981a(a)(1)–(2).

[15] §706(f)(2) of Title VII, 42 U.S.C. §2000e–5(f)(2). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[16] §706(f)(1) of Title VII, 42 U.S.C. §2000e–5(f)(1). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[17] §706(f)(1) of Title VII, 42 U.S.C. §2000e–5(f)(1). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[18] §711(b) of Title VII, 42 U.S.C. §2000e–10(b).

[19] 2 EEOC Compliance Manual, Vol. 2—Interpretive Manual §25.1 (BNA) 632:0019 (1/87).

[20] §713(b) of Title VII, 42 U.S.C. §2000e–12(b).

[21] 29 C.F.R. §1601.93 *et seq.*

[22] 29 C.F.R. part 1630 Appendix.

[23] §709(c) of Title VII, 42 U.S.C. §2000e–8(c). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

[24] 29 C.F.R. §1602.14.

[25] 29 C.F.R. §1602.12.

[26] 29 C.F.R. §1607.4, 1607.15.

[27] 29 C.F.R. §1602.7.

[28] 29 C.F.R. §1602.11.

[29] §709(c) of Title VII, 42 U.S.C. §2000e–8(c). §107(a) of the ADA, 42 U.S.C. §12117(a) (applying the powers, remedies, and procedures of Title VII).

Notes regarding table 2—ADEA

[30] Reorganization Plan No. 1 of 1978, §2, set out in 5 U.S.C. Appendix 1.

[31] §706(b) of Title VII, 42 U.S.C. §2000e–5(b).

[32] EEOC, *Priority Charge Handling Procedures* (June 20, 1995), *reprinted in* 3 EEOC Compliance Manual (BNA) N.3069, N.3070 (10/95).

[33] §7(a) of the ADEA, 29 U.S.C. §626(a) (granting the power to make investigations, in accordance with the powers and procedures provided in §§9 and 11 of the FLSA, 29 U.S.C. §§209, 211).

[34] §9 of the FLSA, 29 U.S.C. §209 (referencing §§9–10 of the Federal Trade Commission Act, 15 U.S.C. §§49–50.)

[35] §11(a) of the FLSA, 29 U.S.C. §211(a) (referenced by §7(a) of the ADEA, 29 U.S.C. §626(a)).

[36] §7(a) of the ADEA, 29 U.S.C. §626(a) (applying powers of §9 of the FLSA, 29 U.S.C. §209, which applies powers of §9 of the FTC Act, 15 U.S.C. §49).

[37] 29 C.F.R. §1626.16(b) (citing general authority to delegate under §6(a) of the ADEA, 29 U.S.C. §625(a)).

[38] 29 C.F.R. §1626.16(c).

[39] §7(a) of the ADEA, 29 U.S.C. §626(a) (applying powers of §9 of the FLSA, 29 U.S.C. §209, which applies powers of §§9–10 of the FTC Act, 15 U.S.C. §§49–50).

[40] 1 EEOC Compliance Manual, Vol. 1—Investigative Procedures §24.13 (BNA) 24:0009 (2/88).

[41] §7(b) of the ADEA, 29 U.S.C. §626(b).

[42] 29 C.F.R. §1626.15(b).

[43] §7(b) of the ADEA, 29 U.S.C. §626(b).

[44] *Id.*

[45] §7(d) of the ADEA, 29 U.S.C. §626(d).

[46] §7(e) of the ADEA, 29 U.S.C. §626(e).

[47] *See Crossman* v. *Crosson*, 905 F.Supp. 90, 93 n.1 (E.D.N.Y. 1995), *aff'd on other grounds*, 101 F.3d 684 (2nd Cir. 1996).

[48] §7(c)(1) of the ADEA, 29 U.S.C. §626(c)(1).

[49] *See* I Lindemann & Grossman, Employment Discrimination Law 574 (3d ed. 1996).

[50] §7(e) of the ADEA, 29 U.S.C. §626(e), referencing §10 of the Portal to Portal Act, 29 U.S.C. §259.

[51] 29 C.F.R. §1626.18.

[52] 29 C.F.R. §1625.1 *et seq.*

[53] 29 C.F.R. §1627.3(a)–(b).

[54] Sec. 11(c) of the FLSA, 29 U.S.C. §211(c).

[55] 29 C.F.R. §1627.7.

Notes regarding table 3—Equal Pay Act

[56] §6(d) of the FLSA, 29 U.S.C. §206(d), as added by Pub. L. 88–38, §3, 77 Stat. 56 (June 10, 1963).

[57] Reorganization Plan No. 1 of 1978, §2, set out in 5 U.S.C. Appendix 1.

[58] EEOC, *Priority Charge Handling Procedures* (June 20, 1995), *reprinted in* 3 EEOC Compliance Manual (BNA) N.3069, N.3070.

[59] §§9 and 11 of the FLSA, 29 U.S.C. §§209, 211.

[60] §9 of the FLSA, 29 U.S.C. §209 (referencing §§9–10 of the FTC Act, 15 U.S.C. §§49–50.)

[61] §11(a) of the FLSA, 29 U.S.C. §211(a).

[62] §9 of the FLSA, 29 U.S.C. §209 (referencing §§9–10 of the Federal Trade Commission (''FTC'') Act, 15 U.S.C. §§49–50.)

[63] *See Cudahy Packing Co. of Louisiana, Ltd.*, v. *Holland*, 315 U.S. 357 (1942).

[64] 29 C.F.R. §1620.31.

[65] §9 of the FLSA, 29 U.S.C. §209 (applying the powers of §§9–10 of the FTC Act, 15 U.S.C. §§49–50.)

[66] 1 EEOC Compliance Manual, Vol. 1—Investigative Procedures §24.13 (BNA) 24:0009 (2/88).

[67] 1 EEOC Compliance Manual, Vol. 1—Investigative Procedures §40.1 (BNA) 40:0001 (2/88).

[68] 1 EEOC Compliance Manual, Vol. 1—Investigative Procedures §60.3(c) (BNA) 60:0001–60:0002 (2/88).

[69] §16(c), (e)(2), 17 of the FLSA, 29 U.S.C. §§216(c), (e)(2), 217.

[70] *Id.*

[71] §16(b) of the FLSA, 29 U.S.C. §216(b).

[72] *Id.*

[73] §10 of the Portal-to-Portal Act, 29 U.S.C. §259.

[74] 29 C.F.R. §1621.4.

[75] §11(c) of the FLSA, 29 U.S.C. §211(c).

[76] 29 C.F.R. §1620.32 (adopting by reference the Labor Department's regulations at 29 C.F.R. part 516).

[77] 29 C.F.R. §1620.32 (b)–(c).

[78] 29 C.F.R. §516.8.

Notes regarding table 4—FMLA

[79] §106(a)–(b), (d) of the FMLA, 29 U.S.C. §2616(a)–(b), (d) (referencing the investigatory authority of §11(a), the recordkeeping requirements of §11(c), and the subpoena authority of §9 of the FLSA, 29 U.S.C. §§209, 211(a), (c)).

[80] §107 of the FMLA, 29 U.S.C. §2617.

[81] §107(b)(1) of the FMLA, 29 U.S.C. §2617(b)(1).

[82] *See* Schneider & Stine, Wage & Hour Law: Compliance and Practice (Clark, Boardman, Callaghan, 1995), §19:02.

[83] §106(a) of the FMLA, 29 U.S.C. §2616(a) (referencing investigatory authority of §11(a), of the FLSA, 29 U.S.C. §211(a)).

[84] *See* Schneider & Stine, Wage & Hour Law: Compliance and Practice (Clark, Boardman, Callaghan, 1995), §19:02.

[85] §106(a) of the FMLA, 29 U.S.C. §2616(a).

[86] *See* §11(a) of the FLSA, 29 U.S.C. §211(a).

[87] *See* §9 of the FLSA, 29 U.S.C. §209 (referencing §§9–10 of the Federal Trade Commission (''FTC'') Act, 15 U.S.C. §§49–50.)

[88] *See Cudahy Packing Co. of Louisiana, Ltd.*, v. *Holland*, 315 U.S. 357 (1942).

[89] *See* §9 of the FLSA, 29 U.S.C. §209 (applying the powers of §§9–10 of the FTC Act, 15 U.S.C. §§49–50.)

[90] *See* State and Federal Wage and Hour Compliance Guide, *supra*, ¶10.02[2][b], at 10–6.

[91] §107(b)(2)–(3), (d) of the FMLA, 29 U.S.C. §2617(b)(2)–(3), (d).

[92] §107(e) of the FMLA, 29 U.S.C. §2617(e).

[93] §107(b)(2)–(3), (d) of the FMLA, 29 U.S.C. §2617(b)(2)–(3), (d).

[94] §107(a) of the FMLA, 29 U.S.C. §2617(a).

[95] §107(a)(4) of the FMLA, 29 U.S.C. §2617(a)(4).

[96] §109(b) of the FMLA, 29 U.S.C. §2619(b).

[97] 29 C.F.R. §§825.402–825.404.

[98] §107(a)(1)(A)(iii) of the FMLA, 29 U.S.C. §2617(a)(1)(A)(iii).

[99] §106(b) of the FMLA, 29 U.S.C. §2616(b).

[100] 29 C.F.R. §825.500.

[101] §106(b) of the FMLA, 29 U.S.C. §2616(b) (referencing §11(c) of the FLSA, 29 U.S.C. §211(c)).

[102] *See* §106(c) of the FMLA, 29 U.S.C. §2616(c).

[103] 29 C.F.R. §825.500(a)–(b).

Notes regarding table 5—FLSA

[104] *See* Schneider & Stine, Wage & Hour Law: Compliance and Practice (Clark, Boardman, Callaghan, 1995), §19:02.

[105] *See id.*

[106] *See* State and Federal Wage and Hour Compliance Guide (Warren, Gorham & Lamont, 1996), ¶10.02[1][d], page 10–5.

[107] §11(a) of the FLSA, 29 U.S.C. §211(a).

[108] §9 of the FLSA, 29 U.S.C. §209 (referencing §§9–10 of the Federal Trade Commission (''FTC'') Act, 15 U.S.C. §§49–50.)

[109] *See Cudahy Packing Co. of Louisiana, Ltd.*, v. *Holland*, 315 U.S. 357 (1942).

[110] §9 of the FLSA, 29 U.S.C. §209 (applying the powers of §§9–10 of the FTC Act, 15 U.S.C. §§49–50.)

[111] *See* State and Federal Wage and Hour Compliance Guide, *supra*, ¶10.02[2][b], at 10–6.

[112] §§16(c), (e)(2), 17 of the FLSA, 29 U.S.C. §§216(c), (e)(2), 217.

[113] *Id.*

[114] §16(b) of the FLSA, 29 U.S.C. §216(b).

[115] *Id.*

[116] §16(e) of the FLSA, 29 U.S.C. §216(e); 29 C.F.R. §580.13; 5 U.S.C. §§701–706.

[117] §16(a) of the FLSA, 29 U.S.C. §216(a).

[118] §10 of the PPA, 29 U.S.C. §259.

[119] 29 C.F.R. §775.1.

[120] §11(c) of the FLSA, 29 U.S.C. §211(c).

[121] 29 C.F.R. §§516.5—516.7.

[122] 29 C.F.R. §516.8.

Notes regarding table 6—EPPA

[123] 29 C.F.R. §801.7(d).

[124] §5(a)(3) of the EPPA, 29 U.S.C. §2004(a)(3).

[125] *Id.*

[126] §5(b) of the EPPA, 29 U.S.C. §2004(b) (applying the powers of §§9–10 of the FTC Act, 15 U.S.C. §§49–50.).

[127] *Id.*

[128] §6(b) of the EPPA, 29 U.S.C. §2005(b).

[129] *Id.*

[130] *Id.*

[131] *Id.*

[132] §6(c) of the EPPA, 29 U.S.C. §2005(c).

[133] *Id.*

[134] §6(a) of the EPPA, 29 U.S.C. §2005(a) (referencing penalty collection procedures of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. §1853(b)-(e)); 5 U.S.C. §§701–706.

[135] 29 C.F.R. §801.1(b).

[136] §5(a)(3) of the EPPA, 29 U.S.C. §2004(a)(3).

[137] 29 C.F.R. §801.30.

Notes regarding table 8—USERRA

[138] 38 U.S.C. §4322(a)-(d).

[139] 38 U.S.C. §4326(a).

[140] 38 U.S.C. §4326(b).

[141] 38 U.S.C. §4326(b)-(c).

[142] 38 U.S.C. §4322(d).

[143] 38 U.S.C. §4322(e).

[144] 38 U.S.C. §4323(a)(1).

[145] 38 U.S.C. §4323(c)(1).

[146] 38 U.S.C. §4323(a)(2)(A).

[147] 38 U.S.C. §4323(a)(2)(B)–(C).

APPENDIX III—COMPARISON OF OPTIONS: PLACING GAO, GPO, AND THE LIBRARY UNDER CAA COVERAGE, FEDERAL-SECTOR COVERAGE, OR PRIVATE-SECTOR COVERAGE

The tables in this Appendix detail the principal differences among the three options for coverage of GAO, GPO, and the Library analyzed in Part III of this Report:

(1) *CAA Option*—Coverage under the CAA, including the authority of the Office of Compliance as it administers and enforces the CAA. (The Board takes as its model the CAA as it would be modified by enactment of the recommendations made in Part II of this Report.)

(2) *Federal-Sector Option*—Coverage under the statutory and regulatory regime that applies generally in the federal sector, including the authority of executive-branch agencies as they administer and enforce those laws in the federal sector.

(3) *Private-Sector Option*—Coverage under the statutory and regulatory regimes that apply generally in the private sector, including the authority of the executive-branch agencies as they administer and enforce those laws in the private sector.

To make these comparisons, the tables use four side-by-side columns. The first column shows the current regime at each instrumentality, described in four categories: *(a)* substantive rights, *(b)* administrative processes, *(c)* judicial procedures, and *(d)* substantive rulemaking processes, if any. The other three columns compare the current regime with the CAA option, the federal-sector option, and the private-sector option.

Items in the charts are marked with the following codes:

''='' indicates rights and procedures now applicable at the instrumentality that would remain substantially the same if alternative provisions were applied.

''+'' indicates rights and procedures not now applicable at the instrumentality that would apply if alternative provisions were applied.

''–'' indicates rights and procedures now applicable at the instrumentality that would no longer apply if alternative provisions were applied.

''~'' indicates other changes in rights and procedures that would result if alternative provisions were applied.

''{}'' indicates the amendments to the CAA proposed in the Board's three specific recommendations set forth in Part II of this Report, which are—

(1) Grant the Office the authority to investigate and prosecute violations of section 207 of the CAA, which prohibits intimidation and reprisal. *(2)* Clarify that section 215(b) of the CAA, which makes applicable the remedies set forth in section 13(a) of the OSHAct, gives the General Counsel the authority to seek a restraining order in district court in case of imminent danger to health or safety. *(3)* Make applicable the recordkeeping and notice-posting requirements of the private-sector CAA laws.[1]

The comparisons in these tables address the substantive rights afforded by the CAA or by the provisions of CAA laws[2] and other analogous provisions that apply to federal-sector employers, private-sector employers, or the three instrumentalities. Furthermore, in defining coverage under each option, the Board decided that the application of the CAA or of analogous federal-sector or private-sector provisions should supersede existing provisions affording substantially similar substantive rights or establishing processes and procedures to implement, remedy, or enforce such rights. Applicable provisions affording substantive rights having no analogue in the CAA, and processes to implement, remedy, or enforce such rights, would not be affected by the coverage described in the three options.

APPENDIX III, TABLE 1.—GENERAL ACCOUNTING OFFICE: TITLE VII, ADEA, AND EPA

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
	SUBSTANTIVE RIGHTS		
Federal-sector provisions of Title VII (§ 717) and the ADEA (§ 15), as well as the EPA, apply to GAO.	=Substantive rights under the CAA are generally the same as those at GAO.	=Substantive rights under federal-sector provisions are generally the same as those at GAO.	=Substantive rights under private-sector provisions are generally the same as those at GAO.
	ADMINISTRATIVE PROCESSES		
GAO management investigates and decides complaints initially. GAO employees may appeal to the PAB, where the PAB General Counsel may investigate and prosecute the action on behalf of employees. GAO must maintain claims-resolution and affirmative-employment programs, which the PAB evaluates. PAB is administratively part of GAO. Its Members are appointed by the Comptroller General (''CG''); and its General Counsel is selected by, and serves at the pleasure of, the PAB Chair, but is formally appointed by the CG.[1]	+Use of model ADR process under CAA is prerequisite to proceeding with complaint. +Administrative processes are more streamlined under the CAA. +The OC would adjudicate claims and appeals. GAO now does this through the PAB; see earlier reference to the institutional structure of the PAB within GAO (in ''current regime'' column). –The CAA does not provide for investigation and prosecution, which GAO and the PAB now conduct, *{but should do so as to retaliation}.* *{The CAA should require recordkeeping and notice posting}.* ~CAA confidentiality rules would apply. ~The CAA does not require EEO programs, including affirmative employment, which are now required of GAO.	=The processes at GAO are modeled generally on those in the federal sector. +EEOC, MSPB, and Special Counsel hear appeals and prosecute violations in the federal sector. GAO now does this through the PAB; see earlier reference to the institutional structure of the PAB within GAO. +GAO would be required to follow EEOC regulations governing agencies' internal claims-resolution procedures and affirmative-employment programs.	+The EEOC investigates and prosecutes in the private sector. GAO now does this through the PAB; see earlier reference to the institutional structure of the PAB within GAO. –The EEOC may be unable to provide timely investigation of all individual charges. –Private-sector provisions do not provide for administrative adjudication and appeal. ~Employers in the private sector are not required to have claims-resolution or affirmative-employment programs.
	JUDICIAL PROCEDURES		
Title VII and ADEA allow suit and trial *de novo* after exhaustion of administrative remedies, provided the employee has not appealed to the PAB. (The employee may sue either after a final GAO decision or if there is no such decision 180 days after the complaint.) EPA allows suit without administrative remedies having been exhausted. Jury trials are not available for ADEA and EPA claims.	+The CAA provides shorter deadlines for exhaustion of administrative remedies and access to the courts +The CAA affords jury trials allowed under all laws, including ADEA and EPA.	+Whereas PAB decisions may be reviewed only by appeal to the Federal Circuit, federal-sector procedures allow suit and trial *de novo* even after decision on appeal to the EEOC or MSPB.	+Jury trials are available under private-sector procedures for all discrimination laws, including ADEA and EPA. ~In the private sector, the EEOC can prosecute in district court, whereas prosecution under the GAOPA is before the PAB.

[1] *See generally* Section 230 Report at 27–29.

APPENDIX III, TABLE 2—GAO: ADA TITLE I AND REHABILITATION ACT

Current Regime	*—Compared to CAA Coverage*	*—Compared to Federal-Sector Coverage*	*—Compared to Private-Sector Coverage*
	SUBSTANTIVE RIGHTS		
All substantive rights of the ADA apply to GAO, under § 509 of the ADA.	=Substantive rights under the CAA are generally the same as those at GAO.	=Substantive rights under federal-sector provisions of the Rehabilitation Act, 29 U.S.C. § 791, are generally the same as those at GAO.	=Substantive rights under private-sector provisions of the ADA are generally the same as those at GAO.

[1] In Part II of the Report, in addition to these three specific recommendations, the Board also made two general recommendations, see Sections B.4 and B.5 of Part II, which are not described in the tables in this Appendix. Also not described in the tables are: the modifications that Members Adler and Seitz believe should be made to the CAA, as applied to GAO GPO, and the Library, in order to preserve certain rights now applicable at those instrumentalities, see Section D.2 of Part III of this Report; and the recommendations made in Part I of the Report, *see* Sections C.1, C.2.(b), D.1.(b), and D.2.(b) of Part I of the Report.

[2] The term ''CAA laws'' refers to the eleven laws, applicable in the federal and private sectors, made applicable to the legislative branch by the CAA. The nine private-sector CAA laws are: the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.) (''FLSA''), Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.) (''Title VII''), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) (''ADA''), the Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621 et seq.) (''ADEA''), the Family and Medical Leave Act of 1993 (29 U.S.C. § 2611 et seq.) (''FMLA''), the Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.) (''OSHAct''), the Employee Polygraph Protection Act of 1988 (29 U.S.C. § 2001 et seq.) (''EPPA''), the Worker Adjustment and Retraining Notification Act (29 U.S.C. § 2101 et seq.) (''WARN Act''), and section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 (''USERRA''). The two federal-sector CAA laws are: Chapter 71 of title 5, United States Code (relating to federal service labor-management relations) (''Chapter 71''), and the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.).